An Impartial

RELATION

Of the Illegal

PROCEEDINGS

AGAINST

St. *Mary Magdalen* COLLEDGE

In *OXON*,

In the Year of our Lord 1687.

CONTAINING

Only Matters of Fact

As they Occurred.

The Second *Edition*, to which is added the most remarkable *Passages*, omitted in the former, by reason of the *Severity* of the *Press*.

Collected by a *Fellow* of the said *Colledge*.

LONDON,

Printed and are to be sold by *Richard Baldwin*, near the the *Black Bull* in the *Old-Baily*. 1689.

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TO THE
READER.

IT was the Unhappiness of the First Relation of the Proceedings against the Gentlemen of St. Mary Magdalen College in Oxford, to come forth imperfect into the World. A thing which at that time could no way be avoided. For though the Commissioners were then so confident of the Basis upon which they acted, as to put the Question to the Fellows, whether they thought they acted against Law? yet such was the inward Guilt that lay upon themselves at the same Instant, of acting against all Law and Justice, that the Arbitrary Severity of those Judges would not suffer any Account to be taken in Writing, of their Proceedings, by the Gentlemen of the Society; so that what was made publick before, was only what was taken by such Persons as writ, as it were, incognito upon the Place. And besides that, such was also the Restraint upon the Press, that there was no other way but to Omit some things which were truly observed. The Gentlemen of the Society therefore finding those Defects in the former Relation, when the Necessity of the impending Storm recalled them from their unlucky Dissipation, recollected their distinct Memories together, and concluded to compleat what had been so imperfectly, for the Reasons mentioned, began, with Additions of their own, and to make a full Display of those Arbitra-

ry

ry Illegalities, by which they were Expelled from the Poſſeſſion of their undoubted Properties.

This is that compleat Relation then, of the whole Proceedings of the Proteſtant Popery *againſt the Gentlemen of St.* Mary Magdalen Colledge, *which preſents it ſelf now to the Readers View; the more worthy his Peruſal, as being one of thoſe Grand Oppreſſions of Arbitrary Rule, which like one of* Samſon's *Arms, pull'd down the Neward Fabrick of* Papal Uſurpation, *upon the Heads of her Triumphant Phyſicians.*

As for what remains, there needs no more be ſaid, but that it is as much our Duty, *to expoſe, as it was their* Policy, *to ſuppreſs the Injuſtice of their Miſdemeanors. And it is the* Felicity *of a Glorious Revolution, that theſe* Gentlemen *now enjoy the Benefit of their* Reſtoration, *while they that were extream upon them, would be glad to be expelled out of the* Colledges *where they remain.*

IV. Queries Resolved.

1. *Whether it be lawful to assist a Prince in the Persecution of the True Religion?*

But if you Bite and Devour one another, take heed that ye be not Consumed one of another, Gal. 5. 15.

Brother goeth to Law with Brother, and that before the Unbelievers: Now therefore there is utterly a Fault amongst you, because you go to Law one with another. 1 Cor. 6. 6.

From these two Texts it will clearly and naturally follow, That as the Christians of all Ages were separated from, and hated by all the rest of the World; so they were under the strictest Obligations to have a very great Love and Affection each to other, and to do nothing that might in the least tend to the Ruine, Impoverishing or Destroying of each other.

From hence I infer: That if one Christians going to Law against another for the Recovery of his just Right, was a Fault, when done before an Unbelieving Judge, that much more was it a Sin to betray a Brother into the Hands of such a Judge, in the Times of Persecution for Religion: And it was a greater Fault, yet to draw his Sword against a fellow Christian, to aid and assist a Persecuting Prince, in the very Act of Persecuting the Church.

The Biting and Devouring one the other tended more naturally to the consuming of them, than any Force from those without; and in that lies the Force of the Apostolick Caution, which is so very plain and self-evident, that it cannot be inforced beyond what it at first appears.

II. *Whether it be Lawful to Desert a Persecuting Prince, when there seemes to be no other way to Preserve the True Religion, or the staying with him may promote the Ruine of it?*

—I say it is Lawful and Necessary. *He that loveth Father and Mother more than me, is not worthy of me*; Matth. 10. 37. A Child is bound in this Case to forsake his Father, a Citizen his City, a Subject his Prince.

Concilium Arelat. can 3. *de his qui arma projiciunt in pace, placuit abstinere eos a communione.* 'Those who refuse to bear 'Arms when the Church is in Peace, 'shall be Excommunicated. Which supposeth they might, or rather ought, to refuse, in time of Persecution. Cited by *Grotius, de Jure Belli & Pacis, lib.* 1. *c.* 2. § 9.

To this Purpose *Tertullian* applies that Passage, *No Man can serve two Masters*; *de Corona, c.* 1. And truly, without Doubt; for if my Prince will set himself in opposition to God, and make it his principal business to destroy the Church, and this is notorious and apparent, and not founded on Surmises; then I am free from those Obligations to assist and defend him in that, and perhaps in any other thing, as long as I see him persist in that Course. Nay, I were a Persecutor, if I should any way Aid or Abet him in it. And I could not plead in my own Justification, That I was his Subject, and bound to assist and defend him, when he is persecuting and destroying my Brethren.

See *Tertullian de corona, cap.* 11. upon which *Rigaltius* hath this Note. *Qui non permittit ut Christianus Ethnico, belligeranti, navaret operam, an permissurus est, ut Christiano, Christianos, hoc est fratres persecuturo se militem adjungat?*

But then, if by staying with him, and fighting for him, he will be, and continue in a Condition of persecuting the Church; and on the contrary, my leaving him will disable him from the other, then I am bound to forsake him, because the not forsaking is a direct assisting and enabling him to persecute; which I had above proved to be utterly Unlawful.

III. *If*

III. *If the Perſecuting Prince be forced to withdraw, or be vanquiſhed and flee, is it lawful to ſubmit to the Lawful Heir of that Prince?*

I ſay Yes. No Nation can ſubſiſt long in a ſtate of *Anarchy*, and it is utterly unlawful to procure the Ruine of a Nation which involves in it the Ruine of the *Church*; ſo that if the Perſecuting Prince flee, there muſt be ſome body ſet-up in his Place; for without Government no Nation can ſubſiſt.

The *Roman* Empire was Elective, and the Chriſtians of the firſt Ages never concern'd themſelves for thoſe Princes which perſecuted them, but ſubmitted and paid the ſame Obedience to all their Succeſſors. So when *Valerian* became a Perſecuter of the Church, and was after that taken Priſoner by *Sapores* King of *Perſia*, they ſubmitted to *Galienus* his Son. *Etiam hoc ei acceſſit ad pœnam, quod cum filium haberet Imperatorem captivitatis ſuæ, tamen de ſervitutis extremæ non invenit ultorem, nec omnino repetitus eſt*; ſaith *Lactantius*, *De Mortibus Perſecutorum*. *He had this added to his puniſhment, that though he had a Son who ſucceeded him in the Empire, yet the extream Slavery and Captivity in which he lived was never revenged, nor was he ever demanded of his Enemies.* Though this was a Fault in his Son, yet it was none in the Chriſtians who had been his Subjects. And after this, when *Licinius* did the ſame thing, and was taken Priſoner by *Conſtantine* the Great, and confined to *Theſſalonica*, in the Year 324. we find no mention made of any ſcruple the Primitive Chriſtians, who were his Subjects, made to ſubmit to their Deliverer, though *Licinius* lived a year after this in *Greece*.

The Fathers of the Council of *Nice*, many of which had been his Subjects, in their Eleventh Canon, have theſe Words, ὡς γέγονεν ἐπὶ τῆς Τυραννίδος Λικιννίου; *as it happened under the Tyranny of* Licinius; It is not improbable he was then living: yet they made no ſcruple to call him a *Tyrant*, becauſe he perſecuted the Church of God. And I leave it to any rational man to judge, whether the Fathers of this Council would have ever thought themſelves bound in Conſcience to have recall'd this Tyrant to the *Throne*, and to have ſuffered under him whatever miſchief he could have inflicted upon them, only becauſe he was once their lawful Prince. Or did any of their Anceſtors ever Addreſs to *Galien* to redeem, or demand *Valerian* his Father,

ther, though he lived in a most intolerable Slavery under the King of *Persia*?

But we are sworn not only to the King in Being, but to his Heirs and lawful Successors; and therefore we are bound to set up the next *Lawful Heir*, and no body else, even by that Oath; but then we are not bound to recal one whom we have been necessitated not to assist, that we might not be accessory by so doing, to the Ruine of our Church.

IV. *Whether it be lawful to resist such a Prince, in case he should attempt to recover his Empire by Force.*

May. Yes: if his Empire were not determined by his Flight, it were not lawful to submit to his Heir, because no man can serve two Masters at once. But after I have once submitted to the other, I am then become his Subject, and he my lawful Sovereign; and therefore I am under the same obligation to defend the Successor, as I was before to defend the Predecessor, that is, against all men who unjustly invade him.

If therefore a Prince, by persecuting the True Religion, makes himself the Enemy of God, and of his *Church*, and the Justice of God overtake him, and he is driven out of his Country, by what means soever it happens, that Prince has by it lost all his Right to the Obedience of his Christian Subjects, and they not only may, but ought to submit to another, and defend him too, even against the former, if he shall attempt to put himself into a condition to renew and finish his former Persecution.

Without this, the state of the Christian were the worst of all others, for he were bound to suffer the Rages of Persecutors, when he need not to help them to ruine the Church, when they could not do it without him; To recall them when they were forced to flee; to set them up again when God hath cast them from their Throne; In short, to promote the Ruine of the Church as far as in him lieth.

FINIS.

A

NARRATIVE

OF THE

Election of Dr. Hough.

President to St. *Mary Magdalen* Colledge, *OXON.* 1687.

THE Presidentship of St. *Mary Magdalen* Colledge, in the University of *Oxon*, being void by the Death of Dr. *Henry Clerk*, late President of the the same, the Vice president gave notice to all the Fellows present in the Chappel, on *Thursday* the 31*st.* of *March*, 1687. where it was unanimously agreed, to proceed to the Election of a President, on *Wednesday* the 13*th.* of *April* following, at nine of the Clock in the Morning, in the Chappel: And in order thereto, the Vice-president caused a Citation to be fixed on the Chappel-door of the said Colledge, signifying the Vacancy, Time and Place of the Election, according to the Direction of the Statutes. But before the Day of Election, being credibly informed, that his Majesty had been pleased to grant his Letters Mandatory, in behalf of Mr. *Anthony Farmer*, they most humbly represented to his Sacred Majesty, in their Petition, bearing Date *April* 9*th.* That the said Mr. *Farmer* was uncapable by their Statutes of being President; and therefore did most humbly pray his Majesty to leave them to a free Election, or recommend such a Person to them, as was capable by their Statutes. *Monday, April* 11*th.* his Majesty's Letters Mandatory were delivered by the Hands of *Mr. Robert Chernock*, Master of Arts, and Fellow of the said Colledge, directed to the Vice-

President and Fellows of *Magdalen* Colledge in *Oxon*, requiring them forthwith to elect the said *Mr. Farmer*, and admit him President: Which Letter the Vice-president read in the Chappel of the said Colledge, between the hours of four and five of the Clock in the same Day, after Evening-Service, before the Fellows of the Colledge there present, and asked them, Whether they in Obedience to his Majesties Letters, would forthwith elect and admit *Mr. Farmer* President? Who all agreed, in consideration to *Mr. Farmer*'s not being qualified, and the Danger of Expulsion to any of the Fellows that should be absent from the Election, and that the time of Election, according to the Citation, was so near, to defer their Answer till *Wednesday* following: Whereupon the Vice-president required all the Fellows to be present in the Chappel the said *Wednesday* morning at nine of the Clock. All the Fellows being then met, the Vice-president read the Statute *De Electione Presidentis*, and the Statute 5. *Eliz.* against corrupt Elections, was read also; after which the Vice-president read the Kings Letter in behalf of *Mr. Farmer*, and the second time demanded an Answer of the Fellows thereto. Their Answer was to this effect: That having a Petition now lying before his Majesty, they ought not to proceed to Election, till they had received his Majesties Answer to the same: And thereupon they all agreed (except *Mr. Chernock*) that the Election should be deferred: which was accordingly done, until the next morning nine of the Clock.

Thursday, April 14*th.* at nine a Clock in the morning, all the Fellows being met, the Vice-president told them, That the Election of a President had been deferred upon account of their Petition to his Majesty, in Answer to which, they had not then received his Majesties Pleasure; that the next Day was the utmost time they could defer the Election by the Statutes, and therefore it was necessary they should come to some Resolution: he told them farther, That the King had commanded them to elect *Mr. Farmer*, and asked their Sense therein: which was unanimous (except *Mr. Chernock*) that the Election should be deferred till the next morning eight of the Clock; and in order thereunto, the Sacrament to be administred first; and accordingly it was adjourned.

Friday, April 15*th.* at eight a Clock in the morning, the Vice-president and Fellows being met, Dr. *Tho. Smith* and Capt. *Bagshaw*, two of the Fellows, acquainted the rest from my Lord President of the Counsel, That in Answer to their Petition, his Majesty having sent his Letter to the Colledge, expected to be obeyed. After which, the Vice-president read again the Kings Letter to them, and ask'd, Whether in Obedience thereunto, they would elect and admit *Mr. Farmer* President? They answered, That they desired they might proceed to an Election. Then the Vice-president having proposed, Whether, having received his Majesties Pleasure in Answer to their Petition, they would make any further Address? The Vice-president, Dr *Fairfax*, Dr. *Pudsey*, and Dr. *Tho. Smith*, were for a second Address;

dress; but all the rest declared immediately for proceeding to the Election.

Then the Vice-president proposed, Whether they would go to an Election *Viva Voce*, or by Scrutiny? The Vice-president, *Mr. Thompson* and *Mr. Chernock*, were for proceeding to an Election *Viva Voce*; all the rest were for going to an Election by Scrutiny, (except Dr. *Tho. Smith*) who was not for going to Election until the King should again be petitioned.

This therefore being their Sense, That they ought to proceed to the Election of a President, according to the Statutes, and this the last day limitted for Election: In order thereunto, the holy Sacrament was solemnly taken by all, (except *Mr. Chernock*.) Then the Statute *De Electione Presidentis*, and 5 *Eliz.* against corrupt Election was read by the Vice-president. Every one took the Oath prescribed in the Statutes to be taken, in order to the Nomination of a President (except *Mr. Thompson* and *Mr. Chernock* who refused it:) And the two Senior Fellows were sworn Scrutators in the Scrutiny of the whole Society: For the Nomination of a President, *Mr. Hough* and *Mr. Maynard* had each of them the major part of all the Voices; and were accordingly pronounced by the Senior Scrutator, *Nominati in Ordine ad Electionem Præsidentis*: Then the thirteen Senior Fellows being met to elect one of these two President; and every one of them sworn according to the Statute; eleven of them elected *Mr. Hough*, who was accordingly pronounced President of St. *Mary Magdalen* Colledge, in *Oxon*, by the Senior Scrutator, in the presence of all the Fellows: and *Mr. Maynard* was appointed by the thirteen Senior Fellows, to present the said President Elect to the Visitor, in order to his Admission. After this, *Mr. Thompson* and *Mr. Chernock* declared, *Viva voce* for *Mr. Farmer*, according to his Majesties Letter.

Saturday, April 16*th. Mr. Hough*, President Elect, was presented to the Visitor by *Mr. Maynard*, who at the same time delivered to his Lordship an Instrument under the Colledge Seal, containing the Proceedings of the Election; after a sight whereof, *Mr. Hough* was sworn and admitted President by his Lordship, according to the Statutes.

Sunday, April 17*th. Mr. Hough*, at his return to the Colledge, took the same Oath again before the Society, and afterwards, as President, took his Seat in the Chappel, at four a Clock Prayers in the Afternoon.

The Names of the Fellows of St. *Mary Magdalens* Colledge in *Oxon*, according to Seniority at the Decease of Dr. *Clerk*, late President.

Dr. *Aldworth* Vice-president, Dr. *Fairfax*, Dr. *Pudsey*, Dr. *Younger*, Dr. *J. Smith*, Dr. *Tho. Smith*, Dr. *Bayly*, Dr. *Stafford*. Mr. *Hollis*, Mr. *Almond*, Mr. *Hamond*, Mr. *Rogers*, Mr. *Strickland*, Mr. *Hough*, Mr. *Fra. Smith*, Mr. *Maynard*, Mr. *Dobson*, Mr. *Bayly*, Mr. *Davis*, Mr. *Hicks*, Mr. *Thompson*, Capt. *Bagshaw*, Mr. *Fayrer*, Mr. *Harwar*, Mr. *Hunt*, Mr. *Cradock*, Mr. *Gillman*, Mr. *Bateman*, Mr. *Penyston*, Mr. *Hyde*, Mr. *Ludford*, ext. Mr. *Fulham*, Mr. *Terbury*, Mr. *Goodwin*, Mr. *Holt*, Mr. *Thornton*, Mr. *Chernock*, Mr. *Wilkes*, Mr. *Holden*, Probat.

The Names of the *Demyes*, according to Seniority at the ſame time.

Mr. *Holt*, Principal, Mr. *Cripps*, Mr. *Jennefar*, Mr. *Adams* Senior, Mr. *Standard*, Mr. *Veſey*, Mr. *Goring*, Mr. *Brabourn*, Mr. *Stonehouſe*, Dnus. *Hyde*, Ds. *Woodward*, Ds. *Liwſay*, Ds. *Allen*, Ds. *Fulham*, Ds. *Watkins*, Ds. *Stacy*, Ds. *Sherwin*, Ds. *Kenton* : *Buſh*, *Gardiner*, *Higgens*, *Croſs*, *Wells*, *Mander*, *Bayly*, *Hanſon*, *Adams* Junior, *Level*, *Bagſhaw*.

A Copy of the Kings Mandate to the Fellows of *Magdalen* Colledge.

James Rex,

TRuſty and well-beloved, We greet you well. Whereas we are well ſatisfied of the Piety, Loyalty and Learning of our Truſty and Well-beloved Anthony Farmer, *Maſter of Arts, of that your Colledge of St.* Mary Magdalen, *we have thought fit hereby effectually to recommend him to you for the Place of Preſident of our ſaid Colledge, now void by the Death of Dr.* Clerk, *late Preſident thereof; willing and requiring you forthwith, upon Receipt hereof, to elect and admit him the ſaid* Anthony Farmer, *into the ſaid Place of Preſident, with all and ſingular the Rights and Priviledges, Emoluments and Advantages thereunto belonging, any Statute, Cuſtom, or Conſtitution to the contrary notwithſtanding; wherewith We are graciouſly pleaſed to diſpenſe with in this behalf. And ſo, not doubting of your Compliance herein, We bid you Farewel.*

Given at our Court at *White Hall*, the Fifth Day of *April*, 1687. in the Third Year of our Reign.

A Copy of *Magdalen* Colledge's Petition, Delivered to the Earl of *Sunderland* by Dr. *Tho. Smith*, and Capt. *Bagſhaw*, *April* 9*th*.

To the Kings moſt excellent Majeſty: The Humble Petition of the Vice-preſident, and Fellows of St. Mary Magdalen *Colledge in* Oxon.

Moſt Humbly ſheweth,

WE have been credibly informed, That Mr. *Anthony Farmer*, who was not of our Foundation, has obtained Your moſt Excellent Majeſties Recommendation to be Preſident of Your Majeſties Colledge, in the room of Dr. *Henry Clerk*, Deceaſed.

We therefore, with all Submiſſion, as becomes Your moſt Dutiful and Loyal Subjects, moſt humbly repreſent to your Sacred Majeſty, That the ſaid *Mr. Farmer* is a Perſon in ſeveral reſpects uncapable of that Character, according to our Founders Statutes: And do moſt earneſtly beſeech Your Majeſty, as Your Majeſty ſhall judge fitteſt in Your moſt Princely Wiſdom, either to leave us to the Diſcharge of our Duty and Conſciences, according to your Majeſties late moſt Gracious Toleration, and our Founders Statutes; or to recommend ſuch a Perſon who may be more ſerviceable to Yout Majeſty, and to this Your Majeſties Colledge.

And Your Petitioners ſhall ever Pray, &c.

This Petition lay four days in his Lordſhips Hands, with a promiſe of his Favour; and then returned, **The King muſt be obeyed.**

The

The Bishop of *Wintons* Letter to the Lord President of the Council.

My Honoured Lord,

THE Obligation I have upon me as Visitor of St. Mary Magdalen Colledge in Oxon, occasions this Address: For I am inform'd that great Endeavours are used with His Majesty to recommend one Mr. Farmer, who is not at present, nor ever was, Fellow of the Colledge, to be President of it; which is directly contrary to the Statutes of the Founder (as I am confident some who promote Mr. Farmers Interest, cannot be ignorant of:) And were there not many Persons now actually Fellows, and several who have been (in particular the Bishop of Man, and Dr. Jesop) very eminent for Learning and Loyalty, and every way qualified according to the Statutes; I should not press your Lordship to lay the Concern of the Colledge (which hath upon all occasions expresst its Zeal and Forwardness in Defence of the Crown, and (as I particularly know) in the great Affairs of the Succession) before his Majesty; who, I hope, will leave them to their Rules, as the Statutes, which have hitherto (excepting in the Times of Rebellion) been conscientiously observed, and which will be the highest Satisfaction to the truly Loyal University, and promote his Majesties Service, which has always been the Endeavour of,

Your Lordships
Most Humble Servant.

A Copy of the Lord *Sunderland's* Letter to the Fellows.

Gentlemen,

THE King being given to understand, That notwithstanding his late Mandate, sent to you for electing Mr. Farmer to be President of your Colledge, you have made choice of another Person: His Majesty commands me to tell you, He is much surprised at these Proceedings; and expects you should send me an Account of what passed on that Occasion, and whether you did receive His Majesties said Letters Mandate, before you chose Dr. Hough. I am,

Gentlemen,
Your Affectionate, and
Humble Servant,
Sunderland.

The Case of the Vice-president and Fellows of St. Mary Magdalen *Colledge in* Oxon. *in their late Election of a President. Presented to the Duke of* Ormond, *April* 21*st.*

UPon the notice of the Death of Dr. *Henry Clerk*, late President of St. *Mary Magdalen* Colledge in *Oxon*; the Vice-president called a Meeting of the Fellows, in order to appoint a Day for the Election of a new President. The 13*th.* of *April* was the Day prefixed; with power to prorogue the Election to the 15*th.* as they should see cause, beyond which time it was not in their power to defer the same. This being agreed, a Citation, or Premonition was fixed upon the Chappel-door of the Colledge, signifying the same; and summoning all the absent Fellows to repair home to the ensuing Election, as the Statute in that Case directs. After this, upon the 11*th.* of *April*, they received His Majesties Letter in behalf of *Mr. Farmer*, requiring them to elect and admit him President: But he having never been Fellow of that Colledge nor *New Colledge*, in which are the only Persons

Persons capable of being chosen by the Statutes; and wanting likewise such personal Qualifications as are required in the Character of a President, they did not imagine it was, or could be His Majesty's Pleasure, that they should act so directly contrary to the express Words of their Statutes, to which they are strictly and positively sworn: But did humbly conceive they were bound in Duty to believe, that His Majesty had been mis-informed in the Character and Capacity of *Mr Farmer*. And therefore on the 15th of *April*, the last of those days within which they were confin'd to finish the Election, they proceeded to a choice, and having first received the Blessed Eucharist, and taken an Oath as the Founder enjoyns, to choose a Person so qualified, as is there specified; they did elect the Reverend *Mr. John Hough*, Batchellor in Divinity, who is a Person every way qualified by the Statutes of the said Colledge: And if it shall be objected that His Majesty did in His Letter for *Mr. Farmer*, graciously dispense with all the Statutes that rendred him uncapable of being elected; and that therefore they might have obeyed without breach of their Oaths: They humbly beg leave to represent, that there is an express Clause in that Oath, which every Man takes when he is admitted Fellow of the Colledge; wherein he swears not to procure, accept, or make use of any Dispensation from his Oath, or any part thereof, by whomsoever procured, or by what Authority soever granted. As to their former practice when they have elected in obedience to the King's Letter heretofore; it has been always in such Cases where the persons recommended have been every way qualified for the Office by their Statutes; in which Cases they always have been, and ever will be, ready to comply with His Majesty's pleasure; it not being without unspeakable Regret, that they disobey the least of his Commands. They know how intirely their welfare depends upon the Countenance of their Prince; nor doth any thing more deeply affect and grieve their Souls, then when they find themselves reduc'd to this unfortunate necessity, of either disobeying his Will, or violating their Consciences by notorious Perjuries.

A Copy of a Letter to the Duke of *Ormond*, Chancellor of the University of *Oxon*, *April* 18*th*. 1687.

May it please your Grace,

WE *the President and Fellows of* Magdalen *Colledge in* Oxon, *sensible of the Benefits and Honour we enjoy under your Grace's Patronage, and how much it imports us to have your Advice in all the Difficulties wherewith we are press'd; having, as we fear, displeased His Majesty, in our Election of a President; do humbly beg leave to represent to your Grace, a true state of our Case, and hope you will please to inform the King how uncapable we were to perform His Commands.*

His Majesty was pleased on the Death of Dr. Henry Clerk, *President of St.* Mary Magdalen *Colledge, to Command us by His Letter, to elect, and admit, Mr.* Anthony Farmer *in that Office, a Person utterly uncapable of it by our Statutes, as we are ready to make appear in many particulars; and since we have taken a positive Oath of obedience to them, and that exclusive to all Dispensations whatsoever; we humbly conceive*

ceive we could not then Command in favour of Mr. Farmer, unless he had brought those Qualifications with him, which our Founder requires in the Person of the President; and being confined as to the time of Election, we have been forced to proceed to the choice of one, who has approved his Loyalty in the whole course of his Life, and whom we think suitably qualified for the place.——

May it therefore please your Grace to interpose with His Most Sacred Majesty for us, that we may not be under the weight of His Displeasure, for not being in a capacity of obeying his Commands. We know him to be a Prince of eminent Justice, and Integrity, and cannot think he will value any instance of Duty to himself, which manifestly breaks in upon the obligation of our Consciences. And your Grace's extraordinary unblemish'd Loyalty to the Crown; and that regard which we assure our selves, our Most Honoured Lord, and Chancellor, has to the Peace and Welfare of this Place, induceth us to presume your Grace will omit no endeavours to set before His Majesty, the true Reason and Necessity of our Proceedings. That God Almighty protect your Grace, shall be the daily Prayers of,

May it please your Grace, &c.

A Copy of the Citation to the Vice-president and fellows, for to appear before the Lords-Commissioners at White-Hall, June *the Sixth*, 1687.

By His Majesty's Commissioners for Ecclesiastical Causes, and for the Visitation of the Universities, and of all, and every Cathedral and Collegiate Churches, Colledges, &c.

Complaint having been made unto Us, that the Vice-president, and Fellows of St. Mary Magdalen *Colledge in* Oxon, *have refused to comply with His Majesty's Letters Mandatory, for electing and admitting Mr.* Anthony Farmer *President of the same Colledge, in the room of Dr.* Clerk *deceased, and that notwithstanding his Majesty's Letters they have elected Mr.* John Hough *President of the said Colledge: You and either of you are hereby requir'd to Cite and Summon the said Vice-president and Fellows, requiring them, or such of the said Fellows as they shall depute in their behalf, to appear before Us in the Council Chamber at* White-Hall, *upon* Monday *the Sixth of the next Month of* June, *at Four in the Afternoon, to answer to such Matters as shall be objected against them, concerning the Premises, and of the due execution thereof: You are to certifie Us then and there,*

Given under our Seal, the 28th *of May*, 1687.

To *Thomas Atterbury*, and *Robert Eldows*, Or to either of them.

On *June* the 6th. The Vice-president and deputed Fellows appear'd before the Lords Commissioners, according to the above Citation. And it being demanded of them, why they refused to obey the Kings Mandate, they desired time to consider of it, which was granted to the 13th. at which time appearing, the Lord Chancellor spake to them.

Ld. Chan. Mr. *Vice-president*: You desired time to bring in your Answer, why you did not admit Mr. *Farmer* President of your Colledge, you have had time assigned you, now what is your Answer.

Then Mr. *Vice president* deliver'd in their Answer in writing to Mr. *Bridgman*, which was sign'd but by five of the

the Delegates, Dr. *Fairfax* not Consenting to it; and therefore, he desired their Lordships to hear him apart, and take his Reasons, why he could not subscribe.

Ld. Chan. We did not Cite Mr. *Fairfax*, but the Colledge; let's first hear the Answer of the Colledge: And then you shall speak.

The Names of the Delegates.

Dr. *Aldworth* Vice-president, Dr. *Fairfax*, Dr. *J. Smith*, Mr. *Hammond*, Mr. *Dobson*, Mr. *Fairer*.

Then Mr. *Bridgman* read their Answer, which is as followeth,

The Answer of the Vice-president, and and other Fellows, of *Magdalen*-Colledge in *Oxon*, who were deputed by the said Colledge, to the Question propounded by the Right Honourable, and Right Reverend, the Lords Commissioners for Ecclesiastical Affairs, *Viz.*

Why they did not obey His Majesty's Letter, requiring them to Elect and Admit Mr. Anthony Farmer *President of the said Colledge?*

THE said Vice-president, and other deputed Fellows answered and said, That the said Colledge of St. *Mary Magdalen* in *Oxon* is a Body Corporate, governed by Local Statutes, granted and confirmed to them by His Majesty's Royal Predecessor, King *Henry* the 6th. for Him and his Heirs and Successors, under the Great Seal of *England*, which are also since confirmed by several other Letters Patents of others of His Majesty's Royal Predecessors, under the Great Seal of *England*, That by the said Statutes of the Colledge (to the observation of which, each Fellow is sworn) it is ordered that the Person elected President thereof, shall be a Man of good Life and Reputation, of approved Understanding, and good Temper, Discreet, Provident and Circumspect, both in Spiritual and Temporal Affairs. And at the time of Election of a President, the said Fellows are bound by the said Statutes, to take an Oath that they shall nominate none to that Office, but such as are, or have been Fellows of the said Colledge, or of *New-Colledge* in *Oxon*: or if they are not actually Fellows at that time of Election; that they be such as have left their Fellowships in their respective Colledges upon credible Accounts. And when two qualified Persons shall be nominated at the time of Election, by the greater number of all the Fellows, to the said Office of President; the thirteen Seniors also swear that they will Elect one of them, whom in their Consciences they think most proper and sufficient, most discreet, most useful, and best qualified for the Place; without any regard to love, hatred, favour, or fear. And every Fellow when he is first admitted into his Fellowship in the said Colledge, swears that he will inviolably keep and observe all the Statutes and Ordinances of the Colledge, and every thing therein contained, so far as does or may concern him, according to the plain, literal and Grammatical sense and meaning thereof, and as much as in him lies will cause the same to be kept and observed by others; and that he will not procure any Dispensation contrary to his aforesaid Oath, or any part thereof, nor contrary to the

Statutes

Statutes and Ordinances to which it relates, or any of them; nor will he endeavour that such Dispensation shall be procured by any other, or others, publickly or privately, directly or indirectly. And if it shall happen that any Dispensation of this sort, of whatsoever Authority it shall be, whether in general or particular, or under what form of Words soever it be granted, that he will neither make use of it, nor in any sort consent thereunto. That upon Notice of the Death of Dr. *Clerk* late President of the said Colledge, the Vice-president called a Meeting of the said Fellows, in order to the appointing a day for the Election of a new President, and the 13th of *April* was the time prefix'd, with power to prorogue the same as they should see cause, till the 15th, beyond which time they could not statutably defer their Election, and in pursuance thereof a Citation, or Promonition, was fix'd upon the Chappel-door of the said Colledge, signifying the same, and by which absent Fellows were Summoned to repair home, as the Statute in the Case requires. And the said Vice-president, and other deputed Fellows farther say, that on the 11th. of *April* aforesaid, they received His Majesty's Letters Madatory, to Elect and Admit the said *Mr. Anthony Farmer* President of the said Colledge: But forasmuch as the said Vice-president, and Fellows, apprehended the right of Election to be in them, and believed His Majesty never intended to dispossess them of their Rights: And forasmuch as the said *Mr. Farmer* had never been Fellow either of *Magdalen*, or *New-College* in *Oxon*, and had not those Qualifications which in, and by, the said Statutes of the Colledge are required, in the Character of a President, as they in their Consciences did, and do verily believe; and in regard that they could not comply with His Majesty's Letter, without the Violation of their Oaths, and hazard of their legal Interest and Property, wherewith they are by their Statutes possessed, and which by their Oaths they are bound to maintain, they represented the same by their humble Petition to His Majesty. And having deferred their Election of a President to the last day limited by their Statutes, then they proceeded to Election, and having first received the Eucharist, and taken the said Oaths, as the Statutes enjoyn, to choose a Person so qualified as is before expressed, they did elect the Reverend *Mr. John Hough* B.D. and one of the Fellows of their Colledge, a Person every way qualified to be President, who has been since confirmed by the Bishop of *Winton* their Visitor, as the Statutes of the said Colledge direct.

And that they might not lye under His Majesty's Displeasure by their Proceedings, they did on the 19th of *April* make an humble Representation thereof to His Majesty, by his Grace the Duke of *Ormond*, Chancellor of the University of *Oxon*, setting forth their indispensable obligations to observe their Founder's Statutes.

All which Matters the Vice-president, and other deputed Fellows, do humbly offer to your Lordships, and pray to be dismissed with your Lordships favour.

After which Dr. Fairfax *ſaid, as followeth,*

Dr. Fairf. MY Lords, I am a Fellow of St. *Mary Magdalen* Colledge, as well as any of theſe Gentlemen, pray give me leave to give my Reaſons why I did not ſubſcribe; my Lord, there is a Statute of *H.*5. where it is provided, That in Eccleſiaſtical Courts there ſhould be a Libel given to the party appeal'd, that he may know what he is accuſed of: My Lords, I deſire this Libel, and do not know what I am called here for. I was to Enquire of the Secretary for this Libel, but he would give me none. This Matter doth not lye in this Court but in *Weſtminſter-Hall.*

Ld. Chan. You are a Doctor of Divinity, but not of Law.

Dr. Fairf. I deſire to know by what Commiſſion you ſit.

Ld. Chan. Pray what Commiſſion have you to be ſo impudent in Court, this man ought to be kept in a dark Room, Why do you ſuffer him without a Guardian? Why did you not bring him to me to beg him; Pray let the Officers ſeize him. Then they were ordered to withdraw, and after a whole hours debate, The Vice-preſident was called in alone, and ordered to attend the Court with his Delegates on *Wedneſday* the 22d. Inſtant.

Doctor Fairfax's *Plea was not delivered.*

THE ſaid Delegates ſays, for and in behalf of the ſaid Vice-preſident and Fellows. That the ſaid St. *Mary Magdalen* Colledge in *Oxon*, whereof they are Members, is a Body corporate govern'd by Local Statutes, granted and confirm'd to them, by His Majeſty's Royal Predeceſſor, King *H.* the 6th. for him, his Heirs and Succeſſors, by his Letters Pattents, under the Great Seal of *England*, and ſince Confirm'd by ſeveral Letters, Pattents of His Majeſty's Royal Progenitors.

That the ſaid Fellows of the ſaid Colledge by thoſe Statutes are ſworn to provide; That the Perſon to be Elected Preſident thereof, be a man of good Life & Reputation of approv'd underſtanding and of Good Manners, and temperate and diſcreet, provident and circumſpect both in ſpiritual and temporal Affairs, and that none be nominated to that Office, but ſuch as are, or hath been Fellows of the ſaid Colledge, or of *New-Colledge* in *Oxon*, and if they are not Actual Fellows, at the time of Election, That they be ſuch as left their Fellowſhips in the ſaid Reſpective Colledge upon credible Accounts, and that upon the Vacancy of the ſaid Preſident-ſhip, all the Fellows of the ſaid Colledge, or the Major part then Preſent, ſhall within——days nominate two Perſons qualified to ſtand Candidates for the ſaid Office of Preſident, and that thereupon the thirteen Seniors of the Fellows of the ſaid Colledge, do ſwear upon the Evangeliſt, that they will Elect one of them ſo Nominated, whom in their Conſciences they think moſt proper, ſufficient and moſt diſcreet, moſt uſeful and beſt qualified for the place, without any regard to Love, Hatred or Favour,

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as in the ſaid Statute is more largely expreſt; and every Fellow of the ſaid Colledge, when he is admitted to his Fellowſhip, in like manner ſwears: That he will not place any Diſpenſation contrary to his Oath. And if any ſuch Diſpenſation ſhall be procured, and freely Granted, under what form of Words ſoever is be Granted, not to make uſe of it, or in any ſort to Conſent thereunto.

That upon the firſt Notice of the Death of Doctor *Clerk*, the late Preſident of the ſaid Colledge, the Vice-preſident call'd a Meeting of the Fellows, in Order to appoint a day of Election of a Preſident as aforeſaid, and the 13*th.* of *April* laſt was the time appointed for the ſaid Election, with power to Prorogue the ſame, as They ſhould ſee Cauſe until the 15*th.* of the ſaid Month, beyond which time They were not Authorized by their Statutes to prolong the ſame, and in conſequence of this appointment, a Citation was fixed to the Door of the Chappel, to Summons the Fellows to repair to the ſaid Election; as the Statutes and Cuſtoms of the ſaid Colledge in that Caſe, Provides, that about this time they were informed: That *Mr. Anothony Farmer*, who had never been Fellow of their Colledge, and was otherwiſe a Perſon of very ill Fame, had obtained his Majeſty's Letters Mandatory, to be Preſident of the ſaid Colledge.

And in regard they could not comply with ſuch Letters Mandatory, without the Violation of their Oaths, and their Legal intereſt and property, which is veſted in them by the ſaid Statutes. They repreſented the ſame by their humble Petition to His Majeſty, being thereunto encouragrd by many gracious Expreſſions of His Majeſty in his Royal Declaration: Wherein he is pleaſed to declare, that no Man's property ſhall be invaded; After three days Attendance without any Anſwer from his Majeſty, to their humble Petition, the Delegates appointed for that purpoſe, were neceſſitated to return to the Colledge to prevent the inconveniency of a Lapſe in the ſaid Election: And finding, That notwithſtanding all their Endeavours to prevent it, His Majeſty was pleaſed to ſend his Letters Mandatory under his Signet and Sign Manual, Directed to the ſaid Vice-preſident and Fellows of St. *Mary Magdalen* Colledge, Thereby requiring them to Elect the ſaid *Mr. Farmer* to be Preſident of the ſaid Colledge, which ſaid Letters were Communicated to them, on the 11*th.* of *April* laſt. They then perceiv'd by the Purport of them, That His Majeſty had been adviſed by a miſtaken Suggeſtion, as they humbly conceived, that the ſaid Office of *Magdalen* Colledge was in His Majeſties Diſpoſition, and therefore grieved to find His Majeſty deceived therein, becauſe They could not comply therewith, without breach of their Oaths, Statutes and Laws, by which they are ſupported: And although in His Majeſties ſaid Letters there were Clauſes of Diſpenſation with the Statutes of the Colledge: Yet they could not, but obſerve, That if they had been at Liberty by the ſaid Statutes, to have Conſented thereunto, They could not have been effectual to them, and that, as they are adviſ'd no Letters of Diſpenſation with Statutes, and

Constitutions, by Letters Patents under the great Seal.

Therefore having deferred the Election of a President, to the last day limited by the Statutes, in hopes to have received his Majesty's Recommendation, of some qualified Person for that Office, or recalling the said Letters, and no such Recommendation, or Resumption appearing. They then (*viz.*) on the 15th day of *April* last past, with the Solemnity required by their Statutes proceeded to the Election, and chose *Mr. John Hough*, B. D. one of their Fellows, and a Person every way qualified to be their President, who is since confirm'd in his Election by the Bishop of *Winton* as the Statutes of the Colledge directs. And is therefore invested with a Freehold under the Protection of his Majesty's Laws. And that they might not suffer in his Majesties good opinion, by these Proceedings, they made an humble representation thereof to his Majesty by the Chancellor of the University. And do now again desire your Lordships to represent their Case to his Majesty, that they may not lie under his Majesties displeasure, upon any mistaken apprehension whatsoever.

And they also humbly offer to your Lordships consideration, that his Majesty's Letters even under the Great Seal (which are of greatest force) when they are granted upon a mistaken suggestion, are frequently controverted and vacuated, in his Majesty's Courts at *Westminster*, without derogation to his Majesty's Prerogative, which can do no wrong to the Properties of his Majesty's Subjects; And they have observed the expression of (*Quantum in nobis est*) frequently used in Letters Patents of greatest Importance, wherein many are extant in the Registry of the University of *Oxon*, made by his Majesty's Royal Predecessors for the benefit thereof, since the Tenth Year of King *Henry* the Third, to shew the great caution used by the Ministers of the Crown; least the King should be deceived in such Letters and Grants.

And moreover, they further humbly offer, that the Letters of his Majesties Predecessors to the Colledges of *Oxon* in ancient time, were only recommendatory without any claim of Right, and they have not ever observed, that when his Majesty's Predecessors of later times, have sent Mandatory Letters, to any of the said Colledges for places which could not be conferred to the Persons by the Statutes of such Colledges, upon Representation thereof made, the same have not been persued, or insisted on, or any imputation made to such Colledges, for not complying therewith, though they most humbly offer to your Lordships, that the Actions of other Men, departed from the Laws and Statutes of their Colledge (if any such hath been) can be no President or Inducement to them in the like Errors.

And they in the last place humbly represent to your Lordships, That the matter of Electing of a President of *Magdalen* Colledge, is meerly Temporal, and in no sort of Ecclesiastical Cognizance. And that by the Statute made in the Sixteenth Year of the Reign of his Majesties most Royal Father, King *Charles* the First: Entituled, *An Act for*

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the Repeal of the branch of a Statute made in the First Year of the late Queen Eliz. Concerning Commissions for Clauses Ecclesiastical, whereby the said branch is Repeal'd, it is Enacted that no new Court shall be Erected, or Ordained, or Appointed within this Realm, which shall, or may have like Power, Jurisdiction or Authority as the High Commission Court then had, or pretended to have, but that all and every such Commissions and Grants, and all Powers and Authorities granted or pretended to be granted, thereby, should be void and of no effect, as in and by the said Statute more fully appears.

Some Clauses of particular Statutes unto which the Case Relates.

In their Statutes concerning their Election of a President, his Character is thus described, *he must be a Man of good Reputation and good Life, and circumspect both in Spiritual and Temporal Affairs.*

In the same Statute, the Oath which every Fellow is obliged to take, before he can give his Vote in the Nomination of a President is this (*viz.*) That he will name one or two of St. *Mary Magd.* College, or of those who have been Fellows there, or have left their places upon legal and credible Accounts, or that he will name one or two of St. *Mary Winchester* Colledge, commonly called *New-Colledge* in *Oxford*, or of those who have been formerly Fellows there; and have left their places upon a credible account. After this the Thirteen Senior fellows Swear; That out of the two thus nominated, they will with all speed Elect one to Exercise the Office of a President, whom in their Consciences they think most proper and sufficient, most discreet, most useful, and best qualified for it, either without any regard to love hatred, favour, fear, &c. as in the forementioned Statute is more largely expresst.

Part of the Oath, which every fellow takes when admitted.

Item. I *Do Swear, that I will not procure any dispensation, contrary to my aforesaid Oath, or to any part thereof, or contrary to the Statutes and Ordinances, to which they relate, or any one of them, nor will I endeavour that such dispensations be procured, by any other, or others, publickly or privately, directly or indirectly: And if it shall happen that any Dispensation of this sort, shall be procured or freely granted, or obtained of what Authority soever it be; Whether in general or particular, under what form of words soever it be granted; I will neither make use it, nor in any sort consent thereunto,*

So help me God.

On *Wednesday June* the 22th. The Vice President and Fellows appear'd again, according to the Commissioners Order, when they gave in their Allegations and Certificates against Mr. *Farmer*. Then also the Election of the President was declared null and void. And the Vice President and Dr. *Hough* suspended.

The Fellows Reasons why they Elected not Mr. Farmer, &c.

WHereas the Vice President, and other deputed Fellows of St. *Mary Magdalen* Colledge in *Oxon*, have in

in their Answer to your Lordships, set forth, that by the Statues of the said Colledge, it is ordered, That the Person to be elected President thereof, should be a man of good Life and Reputation, and of good Manners and Temper; and likewise, that Mr. *Anthony Farmer* hath not those Qualifications which in and by the said Statutes are requir'd in the Character of a President, as they in their Consciences did and do verily believe. They humbly crave leave to represent to your Lordships some of those Reasons which induced them to such belief, *viz.*

That Mr. *Farmer* did mis-behave himself in *Trinity* Colledge in *Cambridge*: That he received Admonition from the Master of the Colledge, in order to his Expulsion; which remains in the Register of the said Colledge, under his own hand.

That having left *Cambridge*, he taught School at *Chippenham* in *Wiltshire*, under a Nonconformist Minister, without Licence.

That in *September* 1683. the said Mr. *Farmer* was entred in St. *Mary Magdalen* Hall in *Oxon*, where such frequent Complaints were brought against him to the Principal, for his troublesome humour and unquiet temper, that to preserve the Peace of the Society, he was desired to leave the said Hall.

That after his leaving *Magdalen* Hall, he was admitted into *Magdalen* Colledge, where discoursing about Religion, he declared, That there was no Protestant but would cut the Kings Throat: notwithstanding which, at other times he declared to some of the Fellows of the said Colledge, That whatsoever he pretended, he was really a Member of Church of *England*; and that he made an Interest with some *Roman* Catholicks, only to get Preferment by their means, and for that reason was willing to be thought of their Religion.

That at the very time when his Majestie's Letter came to the Colledge in his behalf, the said Mr. *Farmer* was at *Abbington* in very ill Company, where he continued drinking to excess two or three days and nights together; and amongst other Disorders, was one of those that then in the Night time threw the Town-Stocks into the River: and that in general, the said Mr. *Farmer* hath had the unhappiness to lie under an ill Fame, as to his Life and Conversation, as by several Letters and Certificates, ready to be produced, will more largely appear.

Copies of Letters and Certificates delivered to the Lords Commissioners for Ecclesiastical Affairs, *June* 27. 1687.

1. I Anthony Farmer, *Batchelour of Arts and Scholar of this Colledge, do confess that I have behaved my self very unlike a Member of this Colledge, and even a Christian, as the Dancing School, for which I humbly ask Pardon, and do acknowledge before the Seniority, that I have deservedly received of the Master my first Admonition in order to Expulsion.*

Trinity Colledge
Camb. Jun. the 11. 1678. Anth. Farmer.

This

This is a True Copy of Anth. Farmer's *Admonition, and attested by us whose Names are here underwritten.*

Humph. Babbington,
John Hawkings,
Benj. Pulleyn,
John Laughton,
} *Vice Magist. Deput.*

II. *These are to certifie, That Mr.* Anth. Farmer *was Usher to Mr.* Benj. Flower, *a Nonconformist Preacher in the Town of* Chippenham *in the County of* Wilts, *for the space of half a year or upwards, the said* M. Flower *keeping School without License from the Bishop, and the said Mr.* Farmer *continuing his Usher for the time mentioned, without any License also. Witness our hands.*

Will. Lake, *Vicar.*
Will. Loude.
Will. Gale.

III. MR. Anthony Farmer *was entred of St.* Mary Magdalen *Hall in Oxford, Septem.* 1. 1683. *Where, after he had been some time, frequent Complaints were brought to me by some of the Masters, that he raised Quarrels and Differences amongst them; that he often occasioned Disturbances, and was of a troublesome and unpeaceable humour. Whereupon, that Love and Friendship might be preserv'd and continued in the Society, as it used to be, I advised the said Mr.* Farmer *to make tryal if he could live more easily and quietly in some other House. Accordingly he did voluntarily leave the Hall* July *the* 13*th* 1685. *and got himself admitted into* Magdalen *College,*

William Levet Principal.

IV. I *Do certifie, That Mr.* William Bambrigg, *Gentleman Commoner of* Magdalen *Hall*, Oxon, *did say, That Mr.* Anthony Farmer, *Master of Arts, did intice him from his Studies in the University to go to* London, *where he the said Mr.* Farmer *did attempt to draw the said Mr.* Bambrigg *into several Debaucheries both at Taverns and Rawdy-houses. Witness my hand,*

John Ryland, *Mr. of Arts of* Magdalen *Hall.*

June 15. 1687.

V. I *Do certifie, That* Mr. Bambrigg, *Gentleman Commoner of* Magdalen Hall, *did say, That Mr. Anthony Farmer, Master of Arts of the said Hall, did receive Money of him and other Gentlemen, publickly to expose unto them a Naked Woman; which he accordingly did. Witness my hand,*

Richard Clerk *Mr. of Arts of* Magdalen *Hall.*

June 9. 1687.

VI. I *Am very willing to justifie any thing I have formerly said, relating to so serious a matter as this is you enquire after. Mr.* Farmer, *one Night in the Cloyster, asked me why I did not get a Commission: I told him truly, I had not Friends to do it for me. He then asked me, what I would do for one: I told him I would fight for my King, and whatsoever he should command me. He then ask'd me, if I would fight for the King's Religion: I told him, there would be no occasion for that, nor would it ever be required of me. He asked me of what Religion I was: I told him a Protestant, and then he said, there was no Protestant but would cut the King's Throat; and that he should lose Three thousand pounds, for being of that Religion he intended to be of; which he said*

said was a Papist. This to the best of my remembrance, is the full of what he said. If I have omitted any thing, it is my care not to write more than I would honestly and justly swear to, I am,

SIR,

Your most Obliged and Humble Servant,

John Brabourn.

VII. *IN or about* January *last*, 1687. *Mr.* Anthony Framer *declared before us, That the Report of his being a Papist was false; but that he was willing to have thought so, because it might do him a kindness: That the reason of his acquaintance with Mr.* Brent *and Mr.* Walker, *was to get Preferment by their Interest: That he had not forsaken the Protestant Religion; adding, that we should call him Rogue, if ever he did: That he would not make any publick Declaration of this, but would declare it amongst Friends when and where he pleased.*

Henry Dobson.
Ja. Fayrer.
Tho. Goodwin.

VIII. *I Do hereby certifie, That* Robert Gardner, *Porter of St.* Mary Magdalen *Colledge, did tell me, that Mr.* Farmer *did very often come into the Colledge late at Night, so much in drink, that he could scarce go or speak. Witness my hand, this* 9th *of* June 1687.

George Fulham.

IX. *UPon* Monday, April *the Third, Mr.* Farmer *came to the Lobster in* Abington *with Mr.* Clerk, *Mr.* Gravener, *and Mr.* Jennyfar, *about eight in the Morning, and staid some time in the house, and went from thence to the Tavern; return'd again about eleven at Night, and sat up till one in the Morning: The next day they went to the Bush-Tavern and sent for a quarter of Lamb for their Supper, and there Mr.* Farmer, *Mr.* Clerk, *Mr.* Gravener, *and two Troopers, and others, continued till past Eleven at Night and so return'd to the foresaid place, and sat up till past three in the Morning. This I do assert, was the Company that the said Mr.* Anthony Farmer *kept, and these were the unseasonable Hours. In witness whereof, I am ready to swear, whenever a Subpœna shall be sent to me.*

George Mortimer.

X. *Mistris* Mortimer *is ready to assert, That when Mr.* Anthony Farmer *return'd to the Lobster about eleven at Night he came much concern'd in Drink, and was for kissing the said Mrs.* Mortimer, *which, he being a stranger, she permitted him to do; but in doing of it he the said Mr.* Anthony Farmer *put his Tongue in her Mouth, which was such a rudeness, that she immediately went out of his company and would not come nigh him any more.*

Martha Mortimer.

XI. *BEing in company with* William Hopkins *of* Abbington, *the* 12*th of* June *last* 1687. *I heard him declare, That himself, with one Mr.* Farmer *of the University of* Oxon, *and some others, did in a Frolick, at an unseasonable time of Night take away the Town-Stocks from the place where they constantly stood, and carried them in a Cart a considerable way, and threw them into a Pool, commonly call'd Mad Hall's Pool. Witness my hand, the day and year above written.*

Charles Peacock

These Papers being delivered into Court, the Colledge were ordered to prove them, which they did sufficiently; for they proved as much more against him, even such things as are not fit to be heard or spoken. Mr.

Mr. Anthony Farmer's *Vindication from the falſe and pretended Allegations of the Vice-preſident and Fellows of* Magdalen *College* Oxon, *to the Right Honourable the Lords Commiſſioners, for Eccleſiaſtical Cauſes.*

The ſaid Vice-preſident and Fellows Alledge *ut ſupra,*

In Anſwer to, and Confutation of, all which Allegations, *Mr. Farmer* offers to this Honourable Court this following Defence.

1. *THat the ſaid Vice-preſident and Fellows of the ſaid Colledge, finding all Shifts and Allegations too weak to Juſtifie their Diſobedience to his Majeſties Royal Mandate for Electing and admitting the ſaid Mr.* Farmer *to be their Preſident: Have falſely and maliciouſly contrived theſe ſeveral Allegations againſt his good Life and Converſation, on purpoſe, not only to defame the ſaid Mr.* Farmer, *but conſequently all others, who have appear'd in his behalf: And who have Recommended him as a Perſon fitly qualified for his Majeſty's favour. To every of which Defamations, and Falſe and Malicious Allegations the ſaid Mr.* Farmer *thus anſwereth.*

As to the *firſt* Article, this Reſpondent anſwers, and is ready to prove. That the ſaid Vice-preſident and Fellows being publickly Demanded at the time of the Election, whether they had any thing to Object againſt his good Life and Manners, or could Aſſign any Miſdemeanour againſt him. The ſaid Vice-preſident anſwered, there was nothing of that Nature Aſſigned, or Inſiſted on, which is a clear proof, that the pretended Allegations were Contrived after the Election of Mr. *Hough.* ——

To the 2 *d.* Article, the Reſpondent Anſwers, that about Nine years ſince, he crowded into a Dancing School at *Cambridge* againſt the Dancing Maſters Conſent; on whoſe Complaint, the ſaid Mr. *Farmer* received Admonition, and was injoyn'd to make ſuch an acknowledgment as hath been produced againſt him, and ſuch admonitions and acknowledgments are frequent in that Colledge, and that was the firſt and only one that ever he received or made, and was then not Eſteemed a fault of ſo high a Nature as to Bar him the Teſtimonial of the Colledge, which he received ſeveral years after, under the Colledges Seal, ſubſcribed by *George Chamberlain*, Vice-preſident, Mr. *Clemens Nevil*, and divers others, who Recommended him, to be Ordained *Deacon*, and the ſaid Teſtimonial, the Reſpondent doth Exhibit into the Regiſtry of this Honourable Court, which he hopes their Lordſhips will be pleaſed to take as a ſatisfactory Anſwer.

To the 3*d.* Article, he ſaith, that he did not Teach School as an Uſher to Mr. *Flower*, but he being then with his Father at *Chippenham*, where Mr. *Flower* Taught School, the ſaid Mr. *Flower* being his Kinſman, and then Sick he was prevail'd on, at his Fathers requeſt to Teach the ſaid School, during the ſaid Mr. *Flowers* Sickneſs; which he did *Gratis* the ſpace of Four or Five Months, not knowing that the ſaid Mr. *Flower* was a Non-Licenced Schoolmaſter.

To the 4*th.* He ſaith, that he very well remembers there were very many

 difference

Differences and Contests between him and several Masters of *Magdalen Hall*, which was Occasioned, as he conceives, by the Envy and Apprehension the Masters had, least he should gain the Tuition and Care of many Pupils, being Solicited thereunto by the Principle. So that for his own ease and quiet, he was as desirous to quit the Hall, as they were to have him; which clearly demonstrates, that these Contests were not occasioned by any uneasie, or disorderly humour of the said Mr. *Farmer*. The Principle, Dr. *Levet* giving him a *Bene discessit*, at his parting thence, and even in the Certificate exhibited into this Court, under the hand of the said Dr. *Levet*, it doth not appear, that he did accuse him of any Misdemeanour, nor did he advise him, as is herein pretended to leave the said Hall. That Mr. *Farmer* being with several of the Fellows of *Magdalen* Colledge, who were sensible of the abuses he suffered at the said Hall, they were very importunate in their invitations, to have him Enter himself of the Colledge, which he accordingly did, and hopes this Honourable Court will esteem this as a full Answer, and Confutation of these Calumnious Accusations.

To the *5th*. He saith, that he doth utterly deny the same to be true, in any part thereof, save that, there was a discourse that some Officers in my Lord *Peterborough*'s Regiment were displac'd for Drinking a Disloyal Health at my Lord *Lovelace*'s House, which the Certifier Mr. *Brabourne*, and *Mr. Farmer* discoursing of, *Mr. Farmer* said, if ever there was occasion, such discarded Officers he believed would sooner fight against the *King* then for him, and what is Certified by *Mr. Dobson*, *Mr. Feyrer* and *Mr. Goodwin*, as to his pretending to be a *Roman Catholick*, in hopes of Preferment; this seems very inconsistent with the former Certificate, and that he never did pretend any such thing, will appear by *Mr. Brents* and *Mr. Walkers* Certificate: Unto which the Respondent refers himself; nor did he ever make any application to either of them, under such pretences; which being considered with the Character of *Mr. Brabourne*, the other Certifier, he hopes this Honourable Court will discharge him from the Ignominy of this Article.

To the *6th*. The Respondent doth deny the same to be true in any part thereof, for that he was not at *Abington* at the time the *Kings* Mandate was Exhibited to the Vice-president, nor for several days before nor since, nor when the Stocks were thrown into the Pool, all which he doubts not of disproveing by Certificates and Witnesses now in Court.

To the *7th*. The Respondent refers himself to the Censure of all sober and unprejudiced Persons, and what his Character was with these Accusers before their disobedience, he refers to their own Testimonials, from whence it may be inferr'd, that whatever other Person had been Recommended to them by his Majesty, he would have found the same Measure as this Respondent hath, to be Certified out of his Reputation and his Life too, if these false Certificates might prevail, which he hopes

hopes this Honourable Court will take into Conſideration.

What remains is to ſhew, that the Vice-preſident and Fellows, by gathering together, theſe falſe Certificates, Endeavour to poſſeſs this Honourable Court, with an ill Opinion of him the ſaid Reſpondent, thereby utterly to incapacitate him of his Majeſties Favour, without any regard to common Honeſty or Chriſtian Charity, there appearing no date to the ſaid Certificates.

In Anſwer to the Reſt of the Certificates, *viz. Mr. Ryland*, *Mr. Clarks*, *George* and *Martha Mortymer*, and *Mr. Fullam*, which may be reduced to three Heads.

Firſt, *That the ſaid Mr.* Farmer *did invite one* Bambridge *to* London, *to ſpend his Mony in Taverns and Bawdy-Houſes.*

Secondly, *That being at* Abington *he kept unſeaſonable hours, and behaved himſelf immodeſtly.*

Thirdly, *That he often came home to his Colledg late at Night and much in Drink.*

In Anſwer to which the Reſpondent Humbly anſwereth,

Firſt, As to the firſt; It is an Hear-ſay only certified by *Mr. Ryland*, and *Mr. Clark*, two of his profeſſed Enemies, and is abſolutely falſe, he never being but once at *London* with *Mr. Bambridge*, and how often he was then in his Company, he refers to the Certificate of *Mr. Heath* and *Mr. Bockwill*.

Secondly, As to the ſecond Article, Grounded on *Mortymers*, and his Wives Certificates; it is ſtrongly to be preſumed that *Mortymer* and his Wife, were by flattery, promiſes and indirect means, prevail'd upon to Sign ſuch Certificates: The moſt reflecting Contents of which they diſown.

Thirdly, As to the third Article, Grounded on *Mr. Fullam's* Certificate, it is an hearſay, and may be preſumed to be Malitious, by what the Porter hath declared ſince.

All which forementioned Articles, as *Mr. Farmer* hath diſproved them by Authentick Certificates and Witneſſes, he is moreover ready to confirm the whole Contents of the Anſwer, by his own Oath, and the Oaths of ſeveral credible Perſons; upon doing whereof he humbly prays this Honourable Court will forbid any further Libels againſt his good Name and Reputation, and declares his Innocency as to the Allegations already Exhibited.

Anthony Farmer.

The Copy of *Dr. Hough's* deprivation by his Majeſties Commiſſioners for Eccleſiaſtical Affairs, &c.

Whereas it appears to us, That Mr. John Hough, B. D. *hath been unduly Elected Preſident of St.* Mary Magdalen *Colledge in the Univerſity of* Oxon, *We have thought fit, upon Mature conſideration thereof, that the ſaid Election be declared void, and the ſaid Mr.* John Hough *be amoved from the ſaid Preſidentſhip, and accordingly we do hereby Declare and Decree, That the ſaid Election is void, And do amove the ſaid Mr.* John Hough, *from the place of Preſident of the ſaid Colledg.*

Given under our Seal this 22*d.* day of *June*, 1687.

A Copy of *Dr. Aldworth's* and *Dr. Fairfax's* ſuſpenſion.

WHereas Charles Aldworth, *Dr. of Laws, Vice-preſident of St.* Mary Magdalen *Colledge* Oxon: *And the Deputies, Fellows of the ſame Houſe have been Conven'd before us, for their Contempt in not obeying his Majeſties Letter Mandatory, for Electing and admitting Mr.* Anthony Farmer *Preſident of the ſaid Colledge: And the ſaid Dr.* Aldworth, *and Deputies having been heard thereupon; We have thought fit to Declare, Pronounce and Decree, that the ſaid Dr.* Aldworth, *ſhall for the ſaid Contempt be ſuſpended, from being Vice-preſident of the ſaid Colledge: And that* Henry Fairfax *Dr. of Divinity, one of the Follows of the ſaid Colledge, ſhall for the ſaid Contempt be Suſpended from his Fellowſhip: And accordingly We do hereby Suſpend Dr.* Charles Aldworth *from being Vice-preſident of the ſaid Colledge: And the ſaid Dr.* Henry Fairfax *from his Fellowſhip in the ſaid Colledge.*

Given under our Seal the 22*d.* of *June*, 1687.

A Copy of the Citation to the Fellows of St. Mary Magdalen *Colledge, to appear before the Commiſſioners for Eccleſiaſtical Cauſes at* White-Hall, July *the* 29*th.*

By his Majeſties Commiſſioners for Eccleſiaſtical Cauſes, and for Viſiting the Univerſities and all and every Cathedral and Collegiate Churches, Colleges, Grammar-Schools, Hoſpitals, and other like Incorporations, Foundations or Societies ——

WHereas We thought fit by our Order of the 22*d. of* June *laſt paſt, to injoyn and require the Fellows of St.* Mary Magdalen *Colledge in* Oxon, *to cauſe our Orders for Vacating the Election made by them to Mr.* John Hough *to be Preſident of the ſaid Colledge, and for Suſpending Dr.* Charles Aldworth *from being Vice-preſident, and Dr.* Henry Fairfax *from his Fellowſhip in the ſame, to be affixed on the Gates of the ſaid Colledge. And Whereas we are given to underſtand that our ſaid Order hath not been obeyed. You and either of you, are hereby required to Cite and Summons the ſaid Fellows of St.* Mary Magdalen *Colledge, Requiring them to appear before Us in the Council Chamber at* White-Hall, *upon* Fryday *the* 29*th. Inſtant, at four in the Afternoon to anſwer the ſaid Contempt, and of the due Execution Hereof, you are to Certifie Us then and there.*

Given under our Seal, the 1*ſt.* day of *July*, 1687.

To *Thomas Atturbury*, and *Robert Eldows*, Or to either of them.

A Copy of the King's Inhibition to *Magdalen* Colledge.

James Rex.

TRuſty and Well-beloved, We Greet you well: Whereas We are informed, that a Sentence or Decree lately made by Our Commiſſioners for Eccleſiaſtical Affairs, touching an Election in that our Colledge, hath not been Obeyed, Our Will and pleaſure is, No Election or Admiſſion be made of any Perſon or Perſons, whatſoever, into any Fellowſhip, Demyſhip, or other Place or Office in Our ſaid Colledge, till we ſhall ſignifie Our further Pleaſure, any Statute, Cuſtom or Conſtitution to the contrary notwithſtanding. And

And ſo, expecting Obedience herein, We bid you farewel.

Given at Our Court at *Windſor*, the 18*th.* of *July*, 1687. in the third year of Our Reign.

By His Majeſtie's Command,

Sunderland.

A Copy of Dr. *Bouchier's* Opinion on the *King's* Inhibition.

I Am of Opinion that his Majeſties Commands ought to be Obeyed, and that they do not come within the word Diſpenſation in the Fellows Oaths, and that this forbearance ought to be no prejudice to the Probationers otherwiſe now to be admitted.

Thomas Bouchier.

A Copy of His Majeſty's Mandate for the Biſhop of Oxon, *to be Preſident.*

To our Truſty and Well-beloved the Senior Fellow of St. *Mary Magdalen* Colledge in our Univerſity of *Oxon*, or in his abſence to the Senior Fellow reſiding there, and to the reſt of the Fellows of our ſaid Colledge.

James Rex.

TRuſty and Well beloved, We Greet you well: Whereas the place of Preſident of Our Colledge of St. Mary Magdalen, *is now void, Our Will and Pleaſure is, That We do hereby Authorize and Require you forthwith, upon receipt hereof, to Admit the Right Reverend Father in God,* Samuel *Lord Biſhop of* Oxon, *into the ſaid place of Preſident, to hold and enjoy the ſame, with all the Rights, Priviledges and Profit, Emoluments and Advantages thereunto belonging, any Statute or Statutes, Cuſtom or Conſtitution to the contrary, in any wiſe notwithſtanding, wherewith We are Graciouſly pleaſed, and do accordingly hereby Diſpenſe in his behalf: And ſo, expecting your ready Obedience herein, We bid you Farewel.*

Given at Our Court at *Windſor*, the 14*th.* of *Auguſt*, 1687. in the third year of our Reign.

By His Majeſty's Command,

Sunderland.

A Copy of the Lord Sunderland's *Letter to the Senior Fellow of St.* Mary Magdalen *Colledge, in the Univerſity of* Oxon, *or in his abſence, to the Senior Fellow reſiding there.*

THe King having been pleaſed by His Letters Mandatory, to require the Fellows of St. *Mary Magdalen* Colledge, to admit the Lord Biſhop of *Oxon*, Preſident of that Colledge; His Majeſty Commands me to let you know, That immediately upon the receipt hereof, he would have you Aſſemble the Fellows, and Communicate to them His Majeſty's ſaid Letters: And I am further Commanded to tell you, That His Majeſty expects a ready Obedience to be paid to His Pleaſure herein. I deſire you would ſend me an Account of your Proceedings, as ſoon as you can, that I may acquaint His Majeſty with it. I am

Yours Sunderland.

A Copy of the Bishop of *Oxon*'s Letter to the Senior Fellow of St. *Mary Magdalen* Colledge in *Oxon*, or in his Absence, to the Senior Fellow residing there.

SIR,

YOU will receive herewith His Majesties Mandate to admit me President of your Colledge of St. Mary Magdalen *in* Oxon, *together with a Letter of my Lord* Sunderland, *pursuant to His Majesties Commands. I am indisposed, as I have been for some time, and not in a condition as yet to travel; and therefore my Request to you is, that upon receipt of the Kings Pleasure, you would do me the Favour to admit me by Proxy* (i. e.) *either the next Senior Fellow under your self, resident, or either of my Chaplains, Mr.* William Wickins, *or Mr.* Thomas Collins, *whom I depute in my stead, which is as valid in Law, as if I were present my self; and is the most usual and customary Practice. And by so doing, you will oblige*

Your very Loving Friend
and Brother
Samuel Oxon.

OXON. Sept. 4th. 1687.

The Lord Sunderland *sent an Order to the Fellows of St.* Mary Magdalen *Colledge, to attend the King at* Christ-Church, *at three in the Afternoon. They attended accordingly.*

King. WHat's your Name? are you Dr. *Pudsey?*

Dr. P. Yes, may it please your Majesty.

K. Did you receive my Letter?

Dr. P. Yes Sir, we did.

K. Then you have not dealt with me like Gentlemen, you have done very uncivilly by me, and undutifully—— Here they all kneeled, and Dr. *Pudsey* offered a Petition, which His Majesty refused to receive: And said,

K. Ye have been a stubborn, turbulent Colledge, I have known you to be so these six and twenty years: You have affronted me in this. Is this your Church of *England* Loyalty? One would wonder to find so many Church of *England* men in such a Business. Go home and shew your selves good Members of the Church of *England*. Get you gone; know I am your King, I will be obey'd; and I command you to be gone: Go and admit the Bishop of *Oxon*, Head, Principle, What d'ye call it of the Colledge?——(One stood by, said President) I mean President of the Colledge. Let them that refuse it look to it; they shall feel the weight of their Sovereigns Displeasure.

The Fellows going out of the Lodgings, were call'd back.

K. I hear you have admitted a Fellow of the Colledge, since you received my Inhibition; Is this true? Have you not admitted *Mr. Holden* Fellow;

Dr. P. I think he was admitted Fellow: But we conceive——

Mr. Cra. May it please your Majesty, there was no new Election or Admission since your Majesties Inhibition; but only

only the Conſummation of a former Election. (They always elect to one years Probation) then the Perſon elected is received, or rejected for ever.

K. The Conſummation of a former Election, 'twas downright Diſobedience, and 'tis a freſh Aggravation. Get you gone home, I ſay again; go, get you gone, and immediately repair to your Chappel, and elect the Biſhop of *Oxon*, or elſe you muſt expect to feel the weight of my Hand——

The Fellows offered again their Petition on their Knees.

K. Get you gone, I will receive nothing from you, till you have obey'd me, and admitted the Biſhop of *Oxon*.

Upon which they went immediately to their Chappel, Dr. *Pudſey* propoſing whether they would obey the King, and elect the Biſhop of *Oxon*? They anſwered in their turns, They were as ready to obey his Majeſty in all things that lay in their power, as any of the reſt of his Subjects: But the electing the Biſhop of *Oxon*, being directly contrary to their Statutes, and the poſitive Oaths they had taken, they could not apprehend it in their power to obey him in this matter.

A Copy of the Petition offered at *Oxford*, *Sept.* 4*th.* 1687.

To the Kings Moſt Excellent Majeſty, &c.

Humbly ſheweth,

THat upon the 27*th.* of *Auguſt*, we received Your Majeſties Letters Mandatory, dated *Auguſt* 14*th.* requiring us to admit the Right Reverend Father in God, *Samuel*, Lord Biſhop of *Oxon*, to be our Preſident, and diſpenſing with all Statutes and Conſtitutions to the contrary. It is an unexpreſſible Affliction to us, to find our ſelves reduced to ſuch an Extremity, that either we muſt diſobey your Majeſties Royal Command, contrary to our own Inclinations, and that conſtant courſe of Loyalty which we have ſhewed in all Inſtances hitherto, upon all Occaſions whatſoever; or elſe break our Founders Statutes, and deliberately perjure our ſelves.

For our Founder hath obliged us under Oath, when we came in Fellows, inviolably to obſerve his Statutes, and one Clauſe therein enjoyns us never to admit, or make uſe of Diſpenſation, granted by any Authority whatſoever, whereby we may be abſolved from the ſame. In this Statute for the Election of a Preſident, he commands us upon Oath, to elect ſuch a Perſon into the Place of Preſident, within fifteen days after the Vacancy, who either is, or has been Fellow of our own, or *New-Colledge*: Which we repreſented to Your Majeſty in our humble Petition ſigned *April* 9*th*, wherein we offered our ſelves ready to elect any Perſon capable of the ſame, who Your Majeſty ſhould be pleaſed to recommend, and having waited the utmoſt time limitted by our Statutes, and received no Anſwer to that effect, we did then, according to the exigence of our Statutes (having firſt taken the holy Euchariſt, and our ſeveral Oaths to that purpoſe) nominate

and

and elect ſuch a Perſon, as we in our Conſciences did believe to be every way qualified for that Place: By which Act of ours, we have conveyed all that Right to him, which our Founder hath intruſted us with; and it does not lye in our power to admit any other. Our Founder in another Statute, obligeth us under the pain of Perjury, a dreadful Anathema, and eternal Damnation, not to ſuffer any of his Statutes to be altered, infringed, or diſpenſed with, and commands us, under the ſame Sacred Obligations, not to execute any Orders or Decree whatſoever, contrary or repugnant to the ſaid Statutes; by which ſaid Statutes and Oaths, we are utterly incapacitated to admit the ſaid Reverend Father in God to be our Preſident.

May it pleaſe your Sacred Majeſty, to give us leave to lay this our Caſe, and our ſelves, with all ſubmiſſion, at Your Royal Feet, moſt earneſtly beſeeching Your Sacred Majeſty to extend to us, Your humble Petitioners, that Grace and Tenderneſs which your Majeſty hath vouchſafed to all your other Subjects; and not to believe us guilty of any Obſtinacy or Undutifulneſs, Crimes which our Souls abhor; but to receive us into your Majeſties Grace and Favour, the greateſt temporal Bleſſing which our Hearts can wiſh.

And Your humble Petitioners ſhall always (as in Duty bound) pray to Almighty God, to bleſs your Majeſty with a long and happy Reign over us, and afterwards to receive you to an immortal Crown of Glory.

A Copy of the Addreſs which the Fellows of St. Mary Magdalen *gave to the Lord Preſident of the Council,* Sept. *6th.* 1687. *and which was delivered His Majeſty at* Bath.

WE Your Majeſties moſt humble, and moſt dutiful Subjects, the Fellows of St. *Mary Magdalen* Colledge in *Oxon*, being deeply afflicted with the late Senſe of Your Majeſties heavy Diſpleaſure; grounded, as we in all reaſon humbly preſume, upon a moſt unkind miſ-repreſentation of our Actions, in relation to an Election of a Preſident, into Your Majeſties ſaid Colledge: do humbly beg leave to proſtrate our ſelves at Your Royal Feet, offering all real Teſtimonies of Duty and Loyalty. And as we have never failed to evince both our Principles and Practices to be truly Loyal, in Obedience to the Commands of Your Royal Brother, and Your Sacred Self, in matters of the like Nature: So whatſoever way Your Majeſty ſhall be pleaſed to try our readineſs to obey your Royal Pleaſure, in any Inſtance that does not interfere with, and violate, our Conſciences, which Your Majeſty is ſtudious to preſerve, we ſhall moſt gladly and effectually comply therewith: A ſtubborn and a groundleſs reſiſtance of Your Royal Will and Pleaſure, in the preſent, and all other Caſes, being that which our Souls eternally abhor, as becomes

Your Majeſties moſt Loyal,
and moſt Obedient Subjects, &c.

A Copy of a Letter directed to Dr. Bayly, *Fellow of* Magdalen *Colledge,* Oxon, *supposed to be writ by Mr.* William Penn.

Sir,

UPON *an Inquiry made of your present Fellows of* Magdalen *Colledge, I am informed that you are a Person eminent in that learned Body, for your Temper, Prudence, and good Conduct in Affairs, and therefore very fit to be addressed to by me, who do not send you this to trapan you and your Brethren; but out of a Passionate Concern for your Interest, to perswade you, either to a Compliance with his Majesties Letters Mandatory, or to think among your selves of some Expedient to prevent the Ruine of your Colledge and your selves: And to offer it to His Majesties Royal Consideration, that the Order for the* Quo Warranto *against the Colledge may be recalled before it be too late; for you cannot be sensible how highly his Majesty is incensed against you, neither can you give one Instance whether ever that sort of proceeding was judged against the Crown. Your Cause must think it very hard; but you are not in prudence to rely on the goodness of your Cause; but to do what the present instant of Affairs will permit, and in patience to expect a Season that will be more auspicious to Persons of your Character. Every Mechanick knows the Temper of his present Majesty, who never will receive a Baffle in any thing that he heartily espouseth, and that he doth this, your selves have had too late and manifest an instance, to doubt of his Zeal in the Affair.*

Where there are so many Statutes to be observed, 'tis impossible but some must be broken at one time or other; and I am informed by the Learned of the Law, that a Failure in any one Point forfeits your Grant, and lays your Colledge open to the Royal Disposal.

I could give many other prudential Arguments, that might possibly incline you to a speedy endeavour of putting an end to your Troubles, almost at any rate; but I shall suggest this one thing to you, that your fatal overthrow would be a fair beginning of so much aimed at Reformation, first of the University, then of the Church, and administer such an opportunity to the Enemy, as may not perhaps occur in His Majesty's Reign. I am,

Your affectionate Servant, &c.

The Answer to the aforementioned written Letter, Dated, Octob. 3*d.* 1687.

THE inclosed Paper is a Copy of a Letter, which by the charitable purpose of it, seems to be writ by you, who have been already so kind as to appear on our behalf, and are reported by all that know you, to imploy much of your time in doing good to Mankind, and using your Credit with His Majesty, to undeceive him in any wrong impressions given him of his conscientious Subjects, and where his Justice and Goodness have been thereby abused, to reconcile the Persons injur'd to his Majesty's Favour, and secure them by it from Oppression and Prejudice. In this confidence, I presume to make

this application to you, desiring your excuse for not subscribing it: For if you did write the Letter, you know to whom it was directed; and if you did not, I hope your Charity will induce you to make such use of your light you have by it, into the Affairs of our Colledge, as to mediate for us with His Majesty, to be restored to his good opinion, as the only thing which is desired by us, who are zealous, above all earthly things, for his Felicity and Glory.

We are not conscious of ever giving His Majesty any just Offence, as it will appear with you, when you shall have perused the enclosed Papers; and have therefore no reason to fear the issuing out of a *Quo Warranto* against us. And though you are pleased to apprehend it, no instance can be given of a Judgment against the Crown, upon the Process of that Writ: The Learned in the Law tell me, there is nothing more common, and whereof many Cases are reported by *Kellaway*, from *Page* 128, to *Page* 152, of his Book of Reports: And I think I have heard of a Case in *Coke*'s ninth Report of the Abbess of *Prata Marcella*, which evinces the same; wherein also there is a recital of Judgment given against *Roger Mortimer* for the King, upon a *Quo Warranto* in Court of *Eyre*, revers'd for Error in the King's-Bench. We hope though we have many Statutes, it will be found that we have not wilfully transgress'd any of them, for all our present Troubles are derived to us from our adherence to them, and our fear to offend God, and blemish our Consciences, by departing from them.

His Majesty is intentionally righteous and just in all his Proceedings, He will never knowingly invade any Man's Property, as he was solemnly pleased to declare in his Excellent Speech made in Council, on the 6th. of *February*, 1684. at his Accession to the Government; which is again repeated in His gracious Declaration for Liberty of Conscience, of the 4th. of *April* last past. It is upon His Sacred inviolable and Royal Word and Promise, we must depend; not doubting but when His Majesty shall be rightly inform'd of our Case, in reference to both His Mandatory Letters to our Colledge, His Anger towards us will be totally extinguished. Our compliance to the first (which was *Mr. Farmer*'s Election) would have involv'd us in the guilt of manifest Perjury, and the wilful violation of our Statutes: And we are confident his Majesty would never have granted the second on the behalf of my Lord Bishop of *Oxon*, if he had known we were then possess'd of a President duly Elected according to our Statutes, and confirmed by the Bishop of *Winton*, our Visitor (as the Statutes require); and if he is thereby invested with a Lay-Freehold under the protection of His Majesties Laws, which we cannot undo or attempt to invade, without subjecting our selves to Suits at Law, and doing an apparent injury to the President, who doth not conceive himself to be affected with the Sentence of the Lords Commissioners (to which he was no Party) whereby his Place is declared void, without any Citations, Summons, or hearing of him.

I believe no inſtance can be given of a *Quo Warranto* brought againſt a Colledge or Hall in the Univerſities, from the firſt Foundation of them to this day, or any other Eccleſiaſtical Corporation: for the Abuſes of ſome Conſtitutions or Franchiſes in them, and the Miſdemeanours of particular Perſons, will not deſtroy a Colledge: And if the Corporation of a Colledge ſhould be diſſolv'd, the Revenues thereof will return to the Founder's Heirs, and not divolve to the Crown. And if our Colledge muſt be the firſt Example of that kind, we ſhall be better juſtified by the ſtrict Obſervation of our Statutes, (at leaſt to God and our own Conſciences) than we could have been by a voluntary and deliberate Breach of them.

It was Loyalty and Conſcience, that in the Reign of King *Charles* the Firſt, made thirty four of our forty Fellows, and moſt of the Scholars of our Foundation, rather quit their Places, and embrace Miſery and Ruin, than to ſubmit to the Government of the Uſurpers of the Crown. And in *Monmouth's* Rebellion, the ſame Inducements prevailed on us to raiſe a Company at our own Charges under the command of one of our Fellows, to engage againſt him. And we hope that theſe and many other the like inſtances, which may be given of the Loyalty and Zeal of our Society to the Royal Family, will be received as Evidences thereof, and that our good and gracious Sovereign will not exclude us from that Liberty of Conſcience, which he was pleas'd to extend to all his Subjects,

Sir, *I am*

Your moſt Affectionate

Servant.

Some *Queries* ſent to the Fellows of *Magdalen* Colledge from *Windſor, September* 15. 1687.

Firſt, *Whether, waving your Election* of the Biſhop of Oxon, *you cannot, without violence to your Conſcience, ſignifie to his Majeſty, or the above Reverend Biſhop, your willingneſs to admit the Lord Biſhop Preſident of your Colledge?*

Secondly, *Whether it be not more Intereſt to the Proteſtant Religion, to have a ſuſpected Popiſh Preſident, than to have all the places of the Colledge refilled by the Kings ſole Authority with Papiſh Novices and Prieſts?*

Thirdly, *Whether you are not under a miſtake, in thinking you ſhould render your ſelves more acceptable to the Proteſtant Nobility and Gentry, by your being turned out of your Fellowſkips by Injuſtice and Violence, as you conceive; or rather will they not be very cautious how they receive you into their Families, for fear of giving of Offence?*

Fourthly, *Whether his Majeſty, as Supream Viſitor of the Univerſity, cannot place or diſplace there* ad libitum? *or whether you have a right notion of the Proceedings which have been practiſed againſt you? whether you ſuppoſe that the Lords Commiſſioners proceeded againſt you as Lords Commiſſioners, or Viſitors? which Notion I am*

ſure will overthrow ſome bodies Plea and Exception againſt their Authority.

Fifthly, *Whether you acted like men skilled in buſineſs, when you refuſed Mr.* Pen's *Mediation, who you may be ſure had good Authority for what he did? You could not but know that Man, and therefore muſt needs be more armed againſt any Wiles that could be offered to you? Whether an unanimous Subſcription for an Expedient, (which indeed I think you ought not to refuſe in good Manners, ſince the King was pleaſed to propoſe it) preſented to his Majeſty by Mr.* Pen, *or another Favourite, would prevent the deſtruction of the beſt Foundation in* Europe?

Laſtly, *Whether you be not drawn beyond your Knowledge, by ſome Hot-headed Adviſers, which never conſider the preſent ſtate of his Majeſty's Court of Juſtice?*

An Anſwer to ſeveral Queries to the Vice-preſident and Fellows of Magdalen *Colledge in* Oxon, *ſent from* Windſor, *Dated the 25th. of* September, 1687.

To the Firſt. WE cannot, without violence to our Conſciences, and deliberate Perjury, admit any Perſon to be Preſident of our Colledge, that is not elected thereunto, and qualified according to our Statutes; whereby the Biſhop of *Oxon* is in no ſort capable; nor is there any Memorial in all our Regiſter of any admiſſion of a Preſident without Election, but of one Doctor *Nicholas Bond*, whoſe Caſe was as followeth (*viz.*) Upon the Death of Doctor *Lawrence Humphreys*, about the 30*th.* or 32*d.* of Queen *Elizabeth's* Reign, the Queen recommended Doctor *Bond* (being a Fellow of our Colledge) to be Elected Preſident. Many of the Fellows inclin'd in their judgment to Elect one *Smith* (another of the Fellows) and at their meeting for Election, the Contention was ſo great, that they roſe without Electing, and the Obſtinacy continued till the place became laps'd: And there being no proviſion in our Statutes to direct us what to do in ſuch a Caſe, the Queen, by her Letters Patents, Conſtituted the ſaid Doctor *Bond* to be Preſident; and therein declared, That her Majeſty being inform'd that the Fellows had neglected to make Election of a Preſident in due time, (as their Statutes required) and thoſe Statutes having made no proviſion for ſuch an Omiſſion, She, out of her Princely care for the place, and indulgence for thoſe Perſons who had been guilty of that neglect, did by the advice of the Biſhop of *Winton*, their Viſitor, Conſtitute Doctor *Bond* their Preſident; with proteſtation nevertheleſs, that She did not thereby pretend to ſuperſede their Statutes, or invade their Right of Election, which was thereby inveſted in them, but took this courſe as the only means left to ſupply their Defect of Election.

To the Second. We muſt not make our ſelves guilty of deliberate Perjury, for any Conſideration whatſoever, both in reſpect to our Conſciences, and that we may not by ſuch a Breach upon our Statutes, expoſe our Conſtitution to a Forfeiture, nor do Evil that Good may come on it.

To

To the Third. We conceive we ſhall be more acceptable to all good Men, for acting honeſtly according to our Conſciences, than for voluntarily and unjuſtly departing from our Right.

To the Fourth. We pretend not to make it a Queſtion, whether His Majeſty, by his Authority Royal as Supream Viſitor, can grant a Commiſſion for Viſitation of any Colledge that has a Local Viſitor by their Statutes, and are not Royal Foundations: But we are adviſed, that no Commiſſion can be granted under the Great Seal to Viſitors, to place or diſplace Members of Colledges (whoſe places are Free-holds) *ad libitum*, or *diſcretum*; but they muſt proceed according to legal Diſcretion, that is, by the Laws and Statutes of the Land, and the Local Statutes of the Colledge. And places concern'd for the Headſhips and Fellowſhips of Colledges, are Temporal Poſſeſſions, and cannot be impeach'd by Summary Proceedings. One Doctor *Thomas Loveney* Preſident of our Colledge, was deprived in Queen *Elizabeth*'s time, by the Biſhop of *Winton*, the Legal Viſitor thereof, Eſtabliſh'd by Royal Authority, and he appeal'd to the Queen; but by the advice of all the Judges, it was held, that the Queen by her Authority, as Supream Viſitor, could not meddle in it, but he muſt bring *an Aſcire* in *Weſtminſter*-Hall, becauſe Deprivation was a Cauſe meerly temporal. The King has a great Authority Spiritual as well as Temporal; but no Commiſſioners can be authorized by the Crown to proceed in any Commiſſion under the Great Seal or otherwiſe, but according to Law; in Spiritual Cauſes by the Canon Law; in Temporal by the other Laws and Statutes of the Land. And wherein the proceedings in ſome Commiſſions are directed to be *ſummarie & de plano*, &c.—— thoſe words are to be applied to ſhorten the Forms of Proceſs, and not for matter of Judgment: for *Magna Charta* provides for our Spiritual Liberties, as well as our Temporal.

A Copy of a Letter to Doctor Fairfaix, Auguſt 8th, 1687.

Sir,

THE firſt News I heard of the fixing the Decrees of the Commiſſioners on the Gates of the Colledge was very ſurprizing, for conſidering that on *Fryday* before, they had been convinced, of the infamous Life of *Mr. Farmer*, 'twas admired, that on *Tueſday* after a Sentence of Suſpenſion ſhould be publiſhed againſt the Vice-preſident, and you, for a Contempt, in not complying with the Kings Letter in his Election, when thoſe that are not partial in it, acknowledge the King was deceived and abuſed in the Grant of it, the Vacating the Preſidents place without hearing, is of the like Nature, I hear he is adviſed to ſtay in the Colledge, and exerciſe the Functions of his place, without taking Notice of the Sentence. And that all the Fellows are reſolv'd to adhere to what they have done, and if a *Mandamus* comes, for the Election of a new Preſident to make an humble Repreſentation to the King: That the Choice of Preſident upon the Death of

Doctor

Doctor *Clerk* was a truſt incumbent upon them by the Statutes, which upon the pain of Perjury they were obliged to perform, and that they have executed that truſt, with the greateſt Solemnity that can be required for the perfection of any humane Action, and the Preſident is thereby inveſted with a Freehold under the Protection of His Majeſty's Laws which they cannot impeach: And which in Duty to God and their Conſcienees, and the Rites of the Colledge they are obliged, ſo far as in them lyes to maintain, and I believe this to be true, for ſince all their Sufferings have been deriv'd to them, for a Conſcientious obſervation of their Statutes, the ſame obligation is ſtill cogent, to oblige their perſeverance therein: Doctor *Bayly* and his Collegiates behaved themſelves with great Prudence in their Conduct here. The Commiſſioners were gladder then they to come off fairly with them. They are Men of Spirit and Conſciences: It's ſaid, the Preſident is ſo juſt to himſelf and the Fellows as to do nothing without their Advice, and I ſuppoſe you will follow that Method, for if you continue in Unity, nothing can hurt you. Your Adverſaries may think it a light thing, to ſuppreſs one or two ſingle Men, but to evacuate a whole Colledge will be too ſcandalous to be attempted. It ſeems the Commiſſioners have adjourn'd their Court to the 6*th.* of *October* next. Which will give you a good breathing time, what ever happens. And the approach of the Term which will be within a Fortnight after the Meeting, may make them cautious of what they Act. Excommunication is a long Proceſs; more terrible in Name then in Power, it ſeems that on *Friday* Doctor *Prite* was going from the Councel-Chamber, *Mr. Chernock* Challeng'd him, and he complained of it to the Commiſſioners, but they had adjourn'd before he came. Yet my Lord Chamberlain was ſo incens'd at it, becauſe it was in the Kings Houſe, that he Commanded him to be apprehended, but he got away: and a Warrant is made to apprehend him, if he can be found: So that for a time you are rid of him,

——— *Farewel.*

A Copy of a Letter to Doctor T. S. Octob. 20th, 1687.

Dear Sir,

BEing Yeſterday at *Lambeth*, I heard you were gone to *Oxford* to their Colledge, whereof all the Company there were glad; becauſe there may be need at this time of your Prudence and Experience, to aſſiſt and adviſe the Society in this preſent juncture. At my departure from thence, I came away in Company with one that ſaid, there was much debate amongſt the Kings Council, Learned in the Law, about the iſſuing out this Commiſſion of Viſitation now in *Oxon.* Some ſaid, that by the Law the King could not grant a Commiſſion of Viſitation to any Colledge, where there were Local Viſitors appointed by the Statutes of the Colledge, becauſe they are private Foundations: conditionally conſtituted and founded, and the Fellows are ſworn

to

to obſerve the Statutes at their Elections to their places, as the condition whereon they have them, and cannot depart from them without incurring the Guilt of direct Perjury; mention was then made of Doctor *Thomas Coveny* Preſident of *Magdalen* Colledge, who had been ejected by the Biſhop of *Winton* as Local Viſitor of the Colledge: and exempt from all ordinary Juriſdiction; and thereupon he appeal'd to the Queen to have Viſitors appointed to Examin the Caſe, a Commiſſion was thereupon awarded under the Great Seal of *England* to *Brown* and *Weſton*, two of the Judges and others, but upon advice of the reſt of the Judges and Civilians, it was reſolv'd, that the Queen by her Authority Royal, could not have Cognizance of it, and that *Coveny* had no Remedy, but to bring an Aſſize in *Weſtminſter* Hall: But others, whereof Doctor *Hedges* is one, did alledge, that there was a Preſident of a Commiſſion of Viſitors of *C. C. C.* in the 10*th.* Year of Queen *Elizabeth*: although that Colledge had the Biſhop of *Winton* for their Viſitor Local, and thereupon this Commiſſion was made, but the ſame Perſon inform'd me; that he had ſeen that Commiſſion of Viſitation (a Copy whereof he ſaid was with the Preſident) and that it appears in the very words of it, that the ſaid Commiſſion had never been iſſued out, had not there been a Defect in their Statutes, whereby the Biſhop of *Winton* could not then Viſit, becauſe his Viſitations are by them limitted to Quinquenial, unleſs he requeſt, to Viſit oftner, and 'twas not then two years ſince he had Viſited, and no ſuch requeſt made, and even in that Commiſſion the Biſhop of *Winton*, was made one of their Viſitors, and they were authorized by it, not to proceed otherwiſe: The Eccleſiaſtical and Municipal Laws of the Land, and the Statutes, Ordinances, Cuſtoms and Priviledges, of the Golledge did direct.

Cooke 4th. Inſt. fol. 346. *Dyers Rep. fol.* 209.

So that you may perceive by this Diſcourſe upon what miſtaken Foundation this Commiſſion is built, 'tis reported that the Commiſſioners will diſplace Doctor *Hough*, and Subſtitute the Lord Biſhop of *Oxon* in his place; but I cannot ſee how that can conſiſt with the Statutes of the Colledge: For if his Diſmiſſion be not warranted by Law, he may recover the place, and all the mean Profits thereof, of any Perſon that ſhall be put in. When I was at the Bath the Report was there ſtrong, of the Biſhops having His Majeſty's Letter, for the Preſidentſhip, and ſeveral of the Chaplains then there, formed a Letter to his Lordſhip; whereof the encloſed is a Copy, which I deſire you to peruſe; the truth is, nothing but a Verdict of twelve Men, according to Law, can diſplace the Preſident except he will make a voluntary Reſignation: For God's ſake, as you are all Men of Loyalty and Conſcience be Unanimous in your Reſolutions. The Liberty of the Church and Univerſity are involv'd in your Conduct, you have the Laws of the Land, and common Right to the Law of God to ſupport you.

Farewel,

I am Your affectionate humble Servant.

A Letter with ſome Queries ſent to the Lords Commiſſioners at Oxon.

My Lords,

YOU were pleaſed to Declare at your firſt Sitting in *Magdalen* Colledge, you doubted not ſo to manage the Viſitation of it, as to approve the juſtice of your proceedings to all reaſonable men; 'tis upon this encouragement, that I (who have not the honour to be of your Society) preſume to offer to your Lordſhips conſideration a few modeſt Queries, with this humble requeſt: That before you proceed to any further ſeverity in that Colledge, you will be pleaſed to give a clear and ſatisfactory anſwer to them.

The Queries my Lords are theſe which follows, *viz.*

First, *Whether it be not conſonant to that Maxim, that the King of* England *never Dies, to look upon the whole ſucceſſion of the Kings and Queens of* England, *as one and the ſame Perſon; ſo that all juſt and lawful Acts, and Grants, done and made by any one Prince for Perpetuity, ſhall be duly reputed the Acts and Grants of all ſucceeding Princes, and oblige them no leſs then they did that Prince by whom they were formerly done and made?*

Secondly, *Whether all former Kings and Queens of the Realm, at leaſt thoſe who have in any their Acts and Grants expreſly Declared, that they did intend by them to Oblige their Succeſſors no leſs then themſelves, were not of this opinion?*

Thirdly, *Whether all Founders of Colledges, Hoſpitals,* &c. *did not make the Royal Confirmation of their Statutes and Orders for Perpetuity, the Condition of the Founding and Endowing their Colledges, Hoſpitals,* &c. *So as they never would have Founded and Endowed them, if they had not thought all ſucceeding Princes obliged by the Acts of thoſe Kings and Queens, who did ſo Confirm their Statutes and Orders?*

Fourthly, *Whether thoſe Members of Colledges, who by Vertue of their Statutes (ſo confirmed) of their reſpective Colledges have taken an Oath, to keep, and obſerve perpetually, ſuch the Statutes (and which is particularly, the Caſe of* Magdalen *Colledge,) never to accept of, or uſe any Diſpenſation by whomſoever granted, for the Releaſing them of any part of their Statutes, can deliberately break the Statutes, (or with Reſpect to* Magdalen *Colledge) admit of any Diſpenſation, with any part of their Statutes without contracting the Guilt of Perjury,*

Your Lordſhips
moſt Humble Servant.

A Coppy of a Letter to Dr. Heges, *Dated* October, *the* 20th. 1687.

Sir,

THE knowledge that I have of your Learning, and Ingenuity, made me very glad to hear of your Imployment at *Oxon*, touching this Commiſſion, for as you are an Univerſity Man, and a Member of the Church of *England*, and which is moſt a Conſciencious honeſt Man; you will not Act contrary to knowledge and right, to deſtroy thoſe Foundations of Learning; by which that Church is chiefly ſupported: 'Tis generally a received Opinion, that the

the King cannot visit any Colledge, but of Royal Foundation, where there are Statutes that appoint Local visitors: And becauſe I have heard by a Friend in this place that you Alledged to him, that there was a Commiſſion of Viſitation Iſſued in the time of Queen *Elizabeth* to the Earl of *Leiceſter* and others to Viſit that Colledge, although the Biſhop of *Winton* was the Local Viſitor of that place, but if you will caſt your Eye upon the Extent of that Commiſſion, which is herewith ſent; you will ſee nothing was there appointed to weaken the Biſhop of *Winton* of his Right of Viſitation. And in the Fourth Year of the Queen, when *Coveny* the Preſident of *Magdalen* Colledge was diſplaced by the Biſhop of *Winton* their Viſitor, he applied to the Queen for a Commiſſion of appeal, and a Commiſſion was awarded under the Great Seal to *Brown* and *Weſton*, two of the Judges, and others. But upon Conference with the reſt of the Judges, it was held, that the Queen could not Impeach the Biſhops Judgment, and that *Coveny* had an Aſſize in *Weſtminſter Hall*. There is not time to enlarge further on this ſubject. I am

Sir, Your very
Affectionate Servant.

To the Lord C. J. Wright.

I Have known your Lordſhip to be a Man of Integrity and Juſtice, and though you have great Temptations, I cannot believe you will depart from the principles thereof. The imployment your Lordſhip is involv'd in, is a great Cauſe; the Eyes of all the Kingdom are upon it, it is not only the Caſe of *Mag.* Colledge, but all the Colledges and Halls of private Foundations in both the Univerſities. Queen *Elizabeth* was inveſted with greater Authority in Caſes of Viſitation then any of Her Succeſſors. There were two Statutes in the Firſt Year of Her Reign that gave Her great Power: The firſt Printed, being the Act for reſtoring to the *Crown* the Ancient Juriſdiction of the State Eccleſiaſtical. The ſecond not Printed, Entituled, an Act giving Authority to the Queen, to make Ordinances in Collegiate Churches and Chappels: It has always been held for a Law, that the King could not viſit any Colledge, but Royal Foundations, where there are Local Viſitors appointed by their Founders, and although, that Queen was inveſted with thoſe Powers mentioned, there is no inſtance can be given of any the like Commiſſion Iſſued by her, as that with your Lordſhips: I know there has been a Preſident mentioned of Commiſſion of Viſitation Iſſued in the 10 *th.* Year of Queen *Elizabeth* to the Earl of *Leiceſter* and others, to viſit *Corpus Chriſti* Colledge in *Oxon*, but that will in no ſort agree with your Lordſhips Commiſſion, for that was Awarded upon a defect in the Statutes of the Colledge: Whereas the Biſhop of *Winton*, their Viſitor could not Viſit; for he is by the Statutes, but once in five years to viſit; and he had ſcarce viſited two years before, and could not then Viſit: And upon that it was, that a Commiſſion was granted to Viſit; and even in that

Commiſſion the Biſhop of *Winton* was one of the Viſitors, and they Authorized to Plead, no otherwiſe then according to the Eccleſiaſtical and Municiple Laws of the Land, and the Conſtitutions, Ordinances, Cuſtoms and Priviledges of the Colledge; and ſuch Rules and Articles as were uſed by the Biſhops of *Winton* in their uſual Viſitation; as your Lordſhips may ſee more at large in an Extract of that Viſitation here incloſed: There is another Caſe reported in *Dyer*, it is *Thomas Coveny*'s Caſe, *&c.*

I deſire your Lordſhips further to conſider, that the King is manifeſtly wronged in this proceedure, *&c.* He is to be adviſed by my Lords the Judges, and if he be miſled the imputation muſt be to you, and if any Extraordinary Cauſe be uſed to theſe poor Men, who in the general belief of both the Univerſities, and the whole Kingdom have not offended the Laws; and the Queſtion will be of ſtrange conſequence, for Property and Right will never want Friends, and the Sufferers for it the Compaſſion of Mankind.

Your Lordſhips
Moſt Humble Servant.

A Copy of a Letter to the Right Reverend Father in God Samuel *Lord Biſhop of* Oxon.

My Lord,

YOur Lordſhips third Letter found me at Supper, with my Lord Biſhop of *Man*, when I was forced to ſtay till the Victuals was taken of to anſwer it: When the two former came to me, I could not gain leiſure to write my Name, the Kings buſineſs and yours Obſtructing me. ———

I am ſorry for your confinement, both for your ſake and my own, for I am ſure it will keep me here the longer, and if your Phyſitians will not grant it, my Lord *Ch. Juſt.* is here, and will ſend you a *Habeas Corpus* to bring you to the Kings Table any day this Week.

The Demurrer of his Majeſties inſtalling you by Proxy, is, becauſe the Mandate is not directed to us but to the Colledge, who all but two refuſe it; and therefore we thought fit to ſend up a Meſſenger laſt Night to give an Account of what was paſs'd; and to requeſt a Mandate to inſtal your Proxy, by which you will find I did not forget you, and though I could not anſwer your Letters, yet your Expectations I will on *Tueſday*, whether the Meſſenger return or not. The ſcruple was not made, nor contemned by me: But when we have done you Juſtice, and Vindicated the Kings Honour and Authority, I ſhall ſhew my Face at *Cudſden*, and pay my Reſpects to your Self and my good Siſter, who is your beſt Phyſitian; if you would follow her Preſcriptions: In the mean time, pray make much of my Brother of the *Bruſh*, and my Siſter, and your Self, or pretend no kindneſs to ———

Your affectionate Brother,

Tho. Ceſtrienſis.

An

An Account of the Visitation of St. Mary Magdalen *Colledge in* Oxon, Octob. *the* 19*th.* 1687.

Mr. Atterbury *the Kings Messenger, fix'd a Citation on the Colledge and Chappel-Doors in these Words.*

By *Thomas* Lord Bishop of *Chester*, Sir *Robert Wright*, Chief Justice of the Court of *Kings-Bench*, and Sir *Thomas Jenner* Knight, one of the Barons of His Majesties Court of *Exchequer*, His Majesties Commissioners (amongst others) for Ecclesiastical Causes, and for the Visitation of Universities, and of all Cathedral and Collegiate Churches, Colledges, Grammar Schools, Hospitals, and other like Incorporations, Foundations, and Societies, and particularly Empowered and Authoriz'd, by his Majesties Letters Patents, to Visit St. *Mary Magdalen* Colledge in the University of *Oxon.*

YOU, and either of You, are hereby required to Cite and Summons Mr. John Hough *the pretended President, and all other the Schollars and Members of St.* Mary Magdalen *Colledge on* Friday *next being the* 21*st. of* Octob. *this Instant, at Nine of the Clock in the Morning, to undergo Our Visitation: And further, to answer to such Matters as shall then and there be Objected against You, intimating likewise; and We do hereby intimate unto them, and every of them: That We intend at the same time and place, to proceed in the said Visitation; the Absence or Contempt of him the said pretended President, or the said Fellows, Schollars, or other Members of the said Colledge, or any of them, to the contrary notwithstanding, and of the due Execution hereof: You are to Certifie Us, at the time and place aforesaid,*

Given under our Seal, which We use in this behalf, *Octob.* the 17*th.* 1687.

To *Tho. Atterbury*, or *Robert Eldours*, Or to either of them.

On Thursday *the Lords Commissioners came to* Oxon, *attended with three Troops of Horse, which Quarter'd there.*

ON *Friday* Morning at Nine of the Clock, they went into the Chappel; the President and Fellows thinking they had designed to sit in the Quire, made no preparation of Seats in the outward Chappel, upon which their Lordships adjourn'd to the Hall, where their Commission was then read, which in general was the same with the former: These three being added to the others, Lords Commissioners, and particularly Impowred to Visit *Magdalen* Colledge only: This being done, the Names of the President and Fellows were called over, Dr. *Hough* being first call'd, all in Town appeared, (except Dr. *Fairfax*) and Excuses made for the absent.

The Subſtance of the Biſhop of Cheſter's *firſt Speech.*

Then a Speech was made by the Biſhop of *Cheſter*, and his Lordſhip began with ſevere Reflections againſt Diſloyalty and Diſobedience, particularly upon their undutiful behaviour to His Majeſty when at *Oxon*, in denying compliance to his juſt and reaſonable requeſt: Nay ſo unreaſonably Valiant were you, as to have none of thoſe fears and apprehenſions about you, which ought to accompany thoſe who approach ſuch an awful Preſence, eſpecially that of an offended Soveraign.

He urged, that the Church of England *taught an unconditional and unlimited Obedience, then enlarged upon the Duty of Diſobedience from ſome of thoſe Arguments, which are generally urg'd from Scripture and reaſon. And how much We were oblig'd to it from his Majeſties Gracious Temper and Character, who is a Prince of that generous inclination, that he will have no Man oppreſſed in things againſt his Conſcience: But will ſuffer all Men to Worſhip God in their own Way, who has ſo freely and Voluntarily given us his Royal promiſe, to maintain his* Arch-Biſhops, *Biſhops, and others the Members of the Church of* England *in their Rights and Priviledges, for which we ought to return our humble thanks upon our bended Knees, notwithſtanding the pretended* Oxford *reaſons to the contrary, which by what means they were uſher'd into the World, you your ſelves beſt know.*

In the mean time we cannot but ſuppoſe, that his Majeſty will make uſe of all prudent and lawful Methods to encourage thoſe of his own Religion, without ſeverity and cruelty, which his Majeſty abhorred, and without injuring the Church of England, *which is at preſent the Religion by Law Eſtabliſhed, for his Majeſty will maintain that Altar, at which he himſelf does not worſhip; but at preſent we are in more danger of Prophaneſs then Popery, of ſin than Superſtition, of all other vices than Idolatry; and I pray God we may not run into Sacriledge, under pretence of abhorring Idols which I my ſelf have ſeen done in this place.*

He told them, that their Corporation (as others) was a Creature of the Crown, and that it was inſolence in their local Statutes to ſpurn againſt their Maker.

That their diſtempers had brought this Viſitation upon them, the Conſequences of which might be ill to the Church and Univerſities: That however they might eſcape in this World, theſe ſins were to be accounted for above their other ſins in the next.

He exhorted them, by the Bowels of Chriſt to conſider theſe things; he told them, That the Eyes of the World were upon them, and they ought to take care, that their Practices might not influence their deluded Admirers. In ſhort the whole deſign of the Speech ſeemed to be Promiſes and Threats, to aim at the inducing them to a compliance.

After the Speech was ended the Biſhop told the Preſident and Fellows, that he took their appearance in good part, and wiſht that the reſt of their proceedings might be anſwerable to this beginning.

The

The Court was then adjourn'd till two in the Afternoon.

Then the Commiſſioners were conducted into the Chappel to Prayers, by the Preſident Dr. *Hough*, who placed the Biſhop in his own Seat, and the two Judges next him on the ſame ſide, and ſate himſelf in the Vice-Preſidents Seat.

In the Afternoon were called over the Names of the Demoys, Chaplins, Clerks, Choriſters, and Colledge Servants. The Preſident then interpos'd, deſiring leave to ſpeak before they proceeded any further; which being granted, he told their Lordſhips: That

Preſident. THE time betwixt your Citation and Appearance was ſo ſhort; that the Society had not time to adviſe with the Council how to behave themſelves on this Occaſion: Therefore deſired of your Lordſhips a Copy of the Commiſſion, and time to conſider of it.

Biſhop *Ch.* 'Tis upon Record, you may have it above.

Pr. Is it the ſame the other Lords Commiſſioners had?

Biſh. *Ch.* Yes for the moſt part it is.

Pr. Then my Lord I do aſſure you (and will make Oath if you pleaſe) that I have often endeavoured to get a Copy of it, and could not procure it.

L.C.J. Have you not heard it Read, or will you hear it again?

Pr. I am not capable of making a Judgment of it my ſelf, but it is poſſible there may be Errours and Defects in't, ſuch as the Society may make uſe of to their own advantage, and I am confident it is neither his Majeſties intention, nor your Lordſhips, we ſhould be debarr'd from it. *A Copy was then denyed.*

Biſh. *Ch.* Dr. *Hough*, will you ſubmit to this Viſitation?

Pr. My Lords, I do declare here in the Name of my ſelf and the greater part of the Fellows; that we ſubmit to the Viſitation, as far as it is conſiſtent with the Laws of the Land, and the Statutes of the Colledge, and no further.* I deſire your Lordſhips that it may be Recorded. *This was twice Repeated.*

L.C.J. You cannot imagine that we Act contrary to the Laws of the Land, and as to the Statutes the King has diſpenſed with them: Do you think we come here to act againſt Laws?

Pr. It does not become me (my Lords) to ſay ſo, but I'le be plain with your Lordſhips; I find that your Commiſſion gives you Authority to change and alter the Statutes, and make new ones as you think fit: Now my Lords, we have an Oath, not only to obſerve theſe Statutes (laying his hand on the Book) but to admit of no new ones, or alterations in theſe; this muſt be my behaviour here, I muſt admit of no alteration from it, and by the Grace of God never will.

Biſh. *Ch.* Do you obſerve all theſe Statutes?

Pr. Yes, my Lord, I hope we do.

Biſh. *Ch.* You have a Statute there for Maſs, why don't you read Maſs?

Pr. My Lord, the matter of this Oath is unlawful; and in ſuch a caſe, no Man is obliged to obſerve an Oath. Beſides, the Statute is taken away by the Laws of the Land.

Biſh.

Bish. *Ch.* By what Law?

Dr. *Stafford.* By that which obliges to say *Common-Prayer.*

Bish. *Ch.* What, the Act of Uniformity? I have often considered it, and don't remember one word of Mass in it.

Dr. *Staff.* But that obliges us to use the Liturgy of the Church of *England*, in all Collegiate Churches and Chappels: And, I hope, my Lords, you do not imagine that we can say *Common-Prayer* and *Mass* together.

Bish. *Ch.* Do you allow that Act of Parliament can free you from the Obligation of a Statute.

Pr. I do not say, but that his Majesty may alter our Statutes, nor do I know but a Parliament may do the same; I dispute not their Power: only this my Lord, I say, that I who already have taken an Oath to observe these Statutes as they now stand, and am sworn not to admit of any change or alteration by any Authority whatsoever, [*And then turning to the Oath, where they were to observe these Statutes and no other, according to the Literal and Grammatical Sence*, &c. *and reading it to their Lordships.*] can obey none: But then those who come after such Limitations and Restrictions are made, are not oblig'd to observe 'em; and that, my Lords, is our Case, as to the Statutes of the Mass.

Then the Decree of the 22*d* of *June* was read, declaring the President's Election Null and Void.

Bish. *Ch.* Did you know of this decree, &c.

Pr. Yes, my Lord, I have heard of it.

Bish. *Ch.* Why then did you not obey

Pr. I was never Cited before their Lordships, nor was either heard by them in Person or Proxy; and I think I am the only instance that is extent, of any Man that was ever depriv'd of a Freehold, wherein he was legally invested, and of which he was quietly possess'd, without being Summon'd or Heard,

Here mention was made of Dr. *Fairfax*'s Suspension.

Pr. My Lord, He is absent, and if your Lordships give me leave, I have somewhat to say on his account; your Lordships may please to observe in that Decree, that the reason given, why Dr. *Fairfax* was Suspended from his Fellowship, was, because he had not obeyed his Majesty's Command, in not Electing Mr. *Anthony Farmer* President of the Colledge: Now the Charge of Immorality given in against Mr. *Farmer* by the Colledge; Delegates was made out, and their Lordships fully satisfied in it, on the 29*th* of *July*, notwithstanding which, this Decree for Suspension of Dr. *Fairfax*, was fix'd on the Colledge Gates, *August the* 2*d.*

Bish. *Ch.* The King hath for the most part recommended to the Presidentship of this Colledge.

Pr. I am the Twentieth President, and only four of that number hath been recommended by the Kings and Queens of *England*, whereof three were every way qualified for that Office.

Bish. *Ch.* Who were these.

Pr. My Lord there was one in the time of *Edw.* the Sixth, one in Q. *Elizabeth*, and two in the late Kings Reign.

Bish. *Ch.* Was there never a one in the Reign of King *Charles* the First.

Pr.

Pr. Not that we know of.

Bish. *Ch.* What think ye of Dr. *Oliver*, to my knowledge (as I am informed) he had a Mandate and carried it about from Fellow to Fellow, and shewed it them, and they went into the Chappel and immediately Elected him.

Pr. It doth not appear to us my Lord, that he ever had a Mandate, no such thing appears upon our Register.

Bish. *Ch.* But it appears to us, and that I will bring you one to Swear, that he had a Mandate.

L.C.J. Where is your Register, let's see e'm.

Pr. The truth is we have lost the Register of Dr. *Oliver*'s Election and Admission; the Register, between the Year 1640. or thereabout and 1660, being taken away by those, who were turned out of the Colledge at that time: But I believe my Lord, we are able to prove, that he was Elected and Admitted according to the Statute.

Bp. Ch. Is this your way of dealing with Us? First, you quote your Statutes, and then tell Us, they are taken away, if you have any Register, deal above board with Us; as we will with you, and let Us see them.

Pre. We have one of the Time since the King came in.

Bp. Ch. Where is't, send for't.

Pre. We cannot come at it, for there are several Keys to the Door, and Dr. *Aldworth* hath one, (He being Vice-president,) and he is out of Town.

Bp. Ch. He's not far off, is he, lets send for him: But I know Dr. *Aldworth* is too much a Gentleman, and too submissive to Authority, that he could not keep a Key; Since he is pronounced, not Vice-president, deal ingenuously with Us, if he hath not the Key say so, Dr. *Hough*, have you any Register in your own Keeping?

Pre. Yes my Lord, I have one, but I conceive that by the Statutes, I am oblig'd to keep it, and therefore I desire time to consider of it.

Bp. Ch. No time, but lets see it.

Pre. Well my Lord, you shall.

Bar. Jen. He questions our Authority I think, did not our Commission say, We were to call for, and see, all Papers and Registers?

Bp. Ch. Well Gentlemen, If your Statutes can no way be altered, how came the late Dr. *Clerk* to be admitted President, was he a statutable Person.

Pre. Yes my Lord.

Bp. Ch. Doth not your Statutes require that he should be in Orders; was he in Orders?

Pre. My Lord, the Statutes, only require, that he should be a Doctor of Divinity, Physick, Law, or Master of Arts. There is indeed one Statute that says, the President or Senior Fellow should read Prayers upon such certain days, from whence we conclude, that the Founder suppos'd, We might have a President that was not in Orders: And in such a Case, he takes care, that the Senior Fellow should do his Duty.

Mr. Chernock. My Lord, will you be pleas'd to ask Dr. *Hough*, whether Dr. *Clerk* was Married or not?

Pre. No Sir, he was a Widower.

Then a Petition was Read, from the Society, to his Majesty, Sign'd the ninth of *April*, and Presented the tenth

to the Earl of *Sunderland*, by the hands of Doctor *Thomas Smith*, and Captain *Bagshaw*, wherein it was set forth, that having heard that His Majesty would recommend Mr. *Farmer* to them, a Person uncapable. They did humbly beseech him, either to leave them to a Free Election, or recommend a qualified Person.

Bp. Ch. Was this Petition answered?

Pre. Yes,

Bp. Ch. Why then, did you not stay for His Majesty's Answer?

Pre. My Lord, We did, till the very last day, wherein we are limitted to finish the Election, and my Lord *Sunderland*, Return'd in the Kings Name this Answer. **That His Majesty expects to be Obeyed**, Now my Lords, We did no longer defer the Election, because our Statutes injoyns Us, within such a time, and We did stay to the utmost, nor could we choose the Person, His Majesty did recommend, knowing him to be so unfit, as We afterwards made him appear to be.

Bp. Ch. Grant Mr. *Farmer* was not capable of it, how comes it to pass, that when you had Read the Kings Mandate, you sent word to the Earl of *Sunderland*, that the Person, the King had recommended was unfit for the place, and that before you had humbly desired, His Majesty would recommend another that was fit for it, and you would thankfully receive him. And yet notwithstanding, when the Earl of *Sunderlands* Answer came, with a Mandate to you, to Elect the Bishop of *Oxon*: You sent him word the place was full, my Question is, how you came to fill that place, contrary to the Kings Mandate, and your own Proposals in that Letter.——

Pre. Had the King sent another Person, and that within Statutable time, We had thankfully receiv'd him, My Lords within fifteen days (as I have already informed your Lordships) They were bound to Elect a President, and because the Earl of *Sunderlands* Letter came not in that time, They were forced to make such an Election as you see.

Ld. Ch. Just. A Mandate always implys an inhibition in respect of all others, and by Vertue of the Kings Prerogative, there is suppos'd a reserve, from what private Statutes require.

Pre. My Lord, I cannot conceive that, neither since the Colledge was Founded, hath there been any instance of that Nature.

Bp. Ch. But I can, and if you Question it, here's the Kings Councel ready to argue it, what time was your Colledge Founded?

Pre. In King *H.* the *6th's* time——

Bp. Ch. Well, when the King suffers a Colledge to be Founded, always supposes such a reserve for his own Power.——

Pre. When a King suffers a Colledge to be founded within his Kingdom, and approves of the Statutes that were made for it, and nothing is therein expresst, implying such a reserve, We to whom the Statutes are delivered, and who positively swear to the observance of them; cannot have such a reserve implyed in them, whilst the Person His Majesty recommends, appears duely qualified for the place, it seems indeed

to

to imply, That we ſhould not proceed to the Election of another, but when he is known to be utterly uncapable, it ſeems to be the ſame, as if there was no Letter at all.

Bp. Ch. Well Gentlemen: In ſhort, Firſt of all, I demand all your Regiſters; Secondly, I demand the Revenues of your Colledge, with an Account of your Benefactors what every one gave, to what uſe the Money was aſſign'd, and how it was employed upon your Uſes, and how far converted to others, or in plain *Engliſh*, how far 'twas deſign'd for Hoſpitality: Thirdly, I demand a Copy of all your Leaſes, you have Lett for two years laſt paſt, to whom you have Lett them, and what Fines you have received upon them. Mr. *Steward*, do you hear, pray look out your Leaſes.

Pre. My Lord, This requires time, and I hope you will Grant it.

Bp. Ch. Till *Tueſday* next.

Some other things and Queſtions leſs Material were put, and then the Court was adjourn'd till *Saturday* the 22*d.* nine in the Morning to the common Room, the Hall being (as they ſaid) too publick and incommodious.

SATURDAY Octob. 22d. 1687.

AS ſoon as their Lordſhips met in the common Room, and the Society before them. The firſt word was, withdraw, and after a little time the Preſident was called alone.——

Bp. Ch. Do you ſubmit to the Decree of the Commoners, whereby your Election is declared Null.——

Pre. As to the Decree of the Lords above, it is a Nullity in its ſelf from the beginning to the end, as it relates to me. I never having been cited, or having ever appear'd before them. Either by Perſon or by Proxie, beſides my Cauſe its ſelf, was never before them. Their Lordſhips never enquiring, or asking one Queſtion, concerning the Legality and Statutableneſs of my Election, for which Reaſons (as I am inform'd) that Decree was of no Validity againſt me, according to the Methods of the Civil Law. But if it were, I am poſſeſt of a Free-hold according to the Laws of *England*, and the Statutes of the Colledge, having been Elected as Unanimouſly, and with as much Formality, as any one of my Predeceſſors, Preſidents of this Colledge, and afterwards admitted by the Biſhop of *Winton* our Viſitor, as the Statutes of the Colledge require: And therefore I can't ſubmit to that Sentence, becauſe I think I cannot be deprived of my Free-hold; but by courſe of Law in *Weſtminſter*-Hall, or by being ſome way incapacitated by the Founders Statutes.

Bp. Ch. Will you deliver up the Keys of the Preſidents Office and Lodgings, to the uſe of that Perſon, whom the King hath appointed your Preſident, as the Statutes require.

Pre. As the Statutes require my Lord.

Bp. Ch. Yes, as your Statutes require.

Pre. I will immediately do it, if that appear.

Bp. Ch. Turn to that part of the Presidents Oath, where he promiseth to submit quietly, if he shall be expell'd, either for his fault, *Vel ob aliam Causam.*

Pre. My Lord, That Statute, only concerns Me, if I be expel'd for any fault Committed by me——

Bp. Ch. Vel ob aliam Causam.

Pre. Then my Lord, to be short, here is no cause at all.

Bp. Ch. I ask you again, Will you deliver up the Keys to the President whom His Majesty hath appointed?

Pre. My Lord, there neither is nor can be a President so long as I live, and obey the Statutes of the Colledge; and therefore I do not think fit to give up my Right, the Keys and Lodgings.

Bp. Ch. We may demand them of you as Visitors.

Pre. My Lords, we never deliver up the Keys to the Bishop of *Winton*; and we own no greater Visitatorial Power than his, he hath the King's Authority. 'Tis by Vertue of a Royal Charter that we live together, and enjoy the benefit of this Place, that impower'd our Founder to give us a Rule, and obliged us by Oath to act suitable unto it: and the Bishop of *Winton* is hereby constituted to be our Visitor; and all this we own from the King's Authority. The Bishop of *Winton* is our ordinary Visitor; the King (I presume) our extraordinary. But your Lordships know it hath been controverted, Whether the King can visit a private Colledge or not? The Authority of the President is made by delivering up the Statute-Book, and Keys; and therefore I look upon them as an essential Badge of my Office.

But I humbly beg that I may ask your Lordships one Question.

Your Lordship is pleased to demand of me to give up these things: Does your Lordship own my Right? For if not, what is it your Lordships would have me give up?

Bp. Ch. No, we look upon you as an Intruder.

Pre. If I am an Intruder, the Bishop of *Winton* made me one, and I thank God for it. My Lords, the time we have been allowed for this appearance, has been very short, but one day betwixt it and the Citation: We are Men ignorant in the Laws, and I must confess it of my self in particular, that I have endeavoured to give your Lordships a plain and satisfactory Reply to such Questions as your Lordships have been pleased to put to me. It is very probable that through ignorance and inadvertency I may express my self unwarily: If so I beseech your Lordship let no advantage be taken of it, my intention has been always to express my self with all imaginable Duty to the King, and Respects to your Lordships. If I have done otherwise, I beseech your Lordships Candor in a favourable Interpretation of what I said, that nothing may be taken amiss, where all was dutifully intended. And now my Lords, thus far have I appear'd before you as Judges; I now address to you as Men of Honour, and Gentlemen, I beseech you to represent me as dutiful to His Majesty to the last Degree, as I always will be, so far as my Conscience permits me, to the last moment of my Life; and when I am dispossest here, I hope your

your Lordſhips will interceed, that I may no longer lie under His Majeſties Diſpleaſure, or be frown'd upon by my Prince, which is the greateſt Affliction can befal me.

Upon this the Preſident was ordered to withdraw, and after a little time, he and the Fellows were called in again. Then the Biſhop repeated this Queſtion.

Bp. Ch. Dr. Hough, Will you deliver up the Keys, and quiet poſſeſſion of the Lodgings, to the Perſon whom His Majeſty has appointed Preſident? To which no anſwer was return'd. The Biſhop repeated a ſecond time.

Pr. My Lords, I have neither ſeen nor heard any thing to induce me to it.

Bp. Ch. Dr. Hough, Will you deliver up the Keys and quiet poſſeſſion of the Lodgings, to the Perſon whom His Majeſty has appointed Preſident.

Whereupon the Kings Proctor ſtood up and accuſed *Dr. Hough* of Countumacy; then the Biſhop of *Cheſter* admoniſh'd him in theſe Words, three times.

Bp. Ch. Dr. Hough, I admoniſh you to depart peaceably out of the Lodgings, and to Act no longer as Preſident, or pretended Preſident of this Colledge.

Which being ſo done, they ſtruck his Name out of the Book, and admoniſh'd the Fellows, and others of the Society, that they ſhould no longer ſubmit to his Authority.

Dr. Fairfax's *Caſe before the Commiſſioners.*

AT the firſt Seſſions *Dr. Fairfax* purpoſely abſented himſelf; but Mr. *Atterbury* making *Affidavit* he was in Town, and that he adviſed him to appear, the Doctor accordingly did ſo the next day. The Doctor being called in alone, and the Doors immediately ſhut, he begg'd of their Lordſhips ſome Company might be let in; becauſe, as all had obſerved the Biſhop in his Speech, at the opening their Commiſſion, promiſed to tranſact every thing in the Face of the World. The Biſhop complained of the Crowd. The Doctor then deſired to fetch in but two or three, at length but one, and him at the Door, *viz.* The Colledge Steward, a Publick Notary.

Bar. Jen. You muſt not think to preſcribe to the Court.

Bp. Ch. What's the Cauſe of your contempt, in not appearing at either Seſſions yeſterday?

Dr. Fair. No contempt my Lord, but for theſe enſuing Reaſons.

Firſt, I thought my Suſpenſion above, had eaſed me of that trouble. The Doctor tendring a Copy of it, which was read by the Commiſſioners. The Doctor inſiſted very much on the Reaſons their Lordſhips, at *White-Hall*, gave for his Suſpenſion, (*viz.*) For not obeying His Majeſty, in Electing *Mr. Farmer*, he tendring a Copy of Articles made good againſt him; and yet their Lordſhips ordered his Suſpenſion to be fix'd on the Colledge-Gates five days after that famous Hearing. *Second* Reaſon for his Non-appearance, that upon the firſt day of the enſuing Term, he intended to meet the Lord Chief Juſtice, at his Court of *Kings-Bench*, for relief againſt the Sentence, his Fellowſhip

being a Free-hold, witneſs *Coveny*'s Caſe.

Bp. Ch. You will find but little favour there.

Dr. Fair. My Lord, in Courts of Judicature, I only expect Juſtice, *and turning to the Lord Chief Juſtice.* I have, my ſelf, ſaid he, been above four years in all the Courts of *Weſtminſter-Hall*, and found excellent Juſtice, and I will ſee how it is now.

L. Ch. Juſt. You ſhall have Juſtice.

Dr. Fair. But your Lordſhip may ſave me the labour of two Journeys, and my Charges, by improving your Lordſhips deſerved Intereſt with my Lords Commiſſioners there, and get them now to take off my Suſpenſion: It is ill Travelling at this time of year; and beſide I am not rich.

Bar. Jen. To ſue in *Weſtminſter-Hall* requires a Purſe.

Dr. Fair. My Lord, I did not ſay I was poor.

L. Ch. Juſt. You muſt make your Supplication and Submiſſion, to the King.

Dr. Fair. My Lord, they tell me that this buſineſs lies in your Lordſhip's Court, and only there (beſides the trouble I am otherwiſe to give your Lordſhip,) What a noiſe will the Cauſe make that *Dr. Fairfax* is ſuſpended for this very reaſon, (*viz.*) not obeying the King in Electing *Anthony Farmer*, ſuch a *Virtuoſo*, and under Correction, your Lordſhips are obliged to take off my Suſpenſion, to take off the ſhame from that Body, whoſe number by a common adjunct you your ſelves have lately increas'd.

Bar. Jen. We muſt not endure theſe Reflections on the Court.

Biſh. But will you ſubmit to this Viſitation?

Then *Dr. Fairfax* read a Paper ſubſcribed by him, Dated *October* the 22*d.* in theſe words: *My Lords, I have been Summon'd, and appeared in this Cauſe before the Lords Eccleſiaſtical at* White-Hall, *with whom your Lordſhips are now joyn'd in Commiſſion; and then gave in my Anſwer: I have nothing to add to it, and find no reaſon to retract it.*

Henry Fairfax.

Biſh. Will you admit of the Biſhop of *Oxford*?

Dr. Fair. I am Suſpended.

Biſh. Have you done no Collegiate-Act ſince your Suſpenſion?

Dr. Fair. My Lord I have gone into the Hall, and laid in my Chamber: I did not think their Lordſhips, when they ſuſpended me, ever intended that I ſhould not eat, drink, or ſleep.

Biſh. If your Suſpenſion was off, would you ſubmit to the Biſhop of *Oxford*?

Dr. Fair. Truly, my Lord, I cannot do it. *Then all the Fellows were called into Court.*

The Preſident being withdrawn, the Biſhop put the Queſtion to all the Fellows, (*viz.*) Whether they would aſſiſt at the Admiſſion of the Biſhop of *Oxford* to be inſtalled Preſident by Vertue of the Kings *Mandate*? To which was anſwered by all the Fellows, to this effect: (except *Dr. Pudſey*, and *Dr. Tho. Smith*, who anſwered doubtfully, and *Chernock* that he would aſſiſt) That they were under Oaths to the contrary, and therefore could not do it.

Then

Then all were ordered to withdraw; and *Dr. Pudſey* being called in alone, they asked him concerning the manner and form of inſtalling a Preſident; which he inſtructed them in.

The Court adjourn'd till Two in the Afternoon.

Saturday the 22d. of October, *at two of the Clock in the Afternoon.*

THe Commiſſioners being ſate, a Letter from *Dr. Pudſey* to the Earl of *Sunderland* was Read, Dated *Auguſt* the 2d. Then the Fellows preſent deſired of the Lords Commiſſioners, that what had been tranſacted between them and *Dr. Hough* in the Morning might be publickly Read, (which with much ado was granted.)

Bp. Ch. Since *Dr. Hough*'s place is declared void, will you admit the Biſhop of *Oxon* Preſident?

Fel. Without deliberate Perjury, my Lord, We cannot do it, it is not in our power to do it, we will not do it.

Bp. Ch. Will you Sir —— ſpeaking to *Mr. Holles.*

Mr. Holles. My Lord, I am paſſive.

Bp. Ch. Paſſive, What do you mean by Paſſive.

Mr. Holles. My Lord, its ſo common a word in the Church of *England*, and ſo plain, that it needs no Explication.

Bp. Ch. Will you Sir —— to *Mr. Wilks*?

Mr. Wilks. I cannot agree to admit the Biſhop of *Oxon* without premeditated perjury, and I will not do it.

Bp. Ch. Well Gentlemen, give Us your anſwer in Form, that We may ſatisfie the King.

Fel. My Lord, We were forc'd, by our Statutes to go to Election, a Statutable Election, We have made by all our Conſents, *Dr. Hough* was Elected, by our Oaths, We are bound not to admit of any other, and foraſmuch as the Kings *Mandate*, for the Biſhop of *Oxon* came too late, We confer'd our Power upon *Dr. Hough*, neither is it in Our Power to Transfer it on another.

Bp. Ch. Well then, you all conſented to that Letter that was ſent from *Dr. Pudſey* to the Earl of *Sunderland*, in anſwer to the Kings *Mandate* to the Biſhop of *Oxon*, that told him the place was full?

Fel. Yes, my Lord we did.

Bp. Ch. Did you Sir —— to *Dr. Stafford.*

Dr. Staff. My Lord I did conſent to a Letter.

Bp. Ch. But to that Letter——. Will you have it Read—— (it was Read.)

Dr. Staff. Oh! Yes, my Lord, that very Letter, that very Letter.

Bp. Ch. Did you Sir —— to *Mr. Chernock.*

Mr. Cher. No, my Lord I was out of Town

Fel. My Lord he was in Town, but that Letter was agreed upon, and ſent from the Chappel, had he been at Prayers he had known of it, but my Lord he never comes to Prayers.

Bp. Ch. Did you Sir —— to *Mr. Bayley.*

Mr. Bayley, Yes, my Lord, I did conſent to it, and do and it's my Opinion ſtill.

Bp. Ch.

Bp. Ch. Then I see, you are resolved, not to admit the Bishop of *Oxon.*

Fel. My Lord We cannot do it.

During this Examination, the President came into Court without any attendance, and having waited until it was ended, and their Lordships at a pause, he made his Application to them.

Pre. My Lords, if your Lordships please to give me leave, I would gladly speak a few words.

They were all pleased to put off their Hats and say he might, whereupon he said.

Pre. *My Lords, You were pleased this Morning in Pursuance to a Decree, of the Lords Commissioners at* London *to deprive me of my place of President of this Colledge, and to strike my Name out of the Buttery-Book, I do hereby protest against all your proceedings, and against all that you have done, or hereafter shall do in prejudice of me and my Right, as Illegal, Unjust and Null; and therefore I Appeal to my Sovereign Lord the King in his Courts of Justice.*

Upon which the Stangers and young Schollars in the Room, gave a *Hum*, which so incens'd their Lordships, that notwithstanding all the Protestations the President and Fellows could make; the President in particular offering to purge himself by Oath, that he was no ways accessary to, or abetting of it, and Declared that he was heartily ashamed and troubled at it, yet the Lord Chief Justice was not to be pacified, but charging it upon the President, bound him in a Bond of 1000 *l.* and Security to the like Value, to make his appearance at the *Kings Bench-Bar*, the 12*th.* of *November.*

Moreover the Lord Chief Justice said he had met with nothing but Affronts from the Colledge, for when he came into the Chappel, there was no Table, when into the Hall, no Carper, (saying to some of them that beg'd his pardon) that the Affront was done to the King whom they represented, and they could not Pardon it, and as for himself, he valued not what People said of him, but was resolved to Vindicate the Honour of his Master, to the last drop of his Blood, and if the Civil Power could not keep them in Order the Military should: About which time several Officers then in Town came into the Room.

Bp. Ch. There was a Libel dropt here this Morning which might be by some of you, and when We came into Town, as We past along in the Coach, through the High Street, I put off my Hat to some Scholars that were in a Booksellers Shop, and one of them instead of returning the Civility, Cocks up his Hat to shew his Pretty Face, he was one of this House, and I spoke with him this Morning, and shall speak with him again before I go out of Town, and make him know himself.

After this, was read the answer of the Fellows returned to his Majesty upon his Command to them the 4*th.* of *September*, to Elect the Bishop of *Oxon.* The answer was under the hand of a Publick Notary, subscrib'd by all the Fellows then present (except *Mr. Chernock*) the Bishop of *Ch.* was pleased to charge the Fellows with unmannerliness, in sending such an answer to their Prince after such a manner.

So

So they Adjourned till Tuesday *the* 25*th. of* October, *at* 8 *of the Clock in the Morning.*

Tuesday the 25th. *of* October.

WHen the Court met, *Dr. Stafford* offered a Paper in answer to what was objected on *Friday*, that a *Mandate* implied an Inhibition; which their Lordships having perused, would not suffer to be read publickly, but askt the Fellows whether they would sign it, bidding them to do it at their peril.

Then the Fellows had leave to withdraw into the Hall, and not being satisfied that it was necessary to sign a Plea, which their Lordships refused to have argued, they returned the Paper into the Court, subscribed only by *Dr. Fairfax*, and *Dr. Stafford*. The latter, after some debate, desired to withdraw, but *Dr. Fairfax* stood to it.

A Copy of Dr. *Stafford's* and Dr. *Fairfax's* Plea.

To the Right Reverend and Right Honourable His Majesty's Commissioners for the Visiting of St. Mary Magdalen *Colledge in* Oxford.

May it please your Lordships,

ON *Friday* last, in the afternoon, you seem'd to insist very much on this (*viz.*) That his Majesty in commanding the Fellows of the said Colledge to Elect *Mr. Farmer* President, did thereby inhibit them to Elect any other Person whatsoever; which has not yet been made appear to be Law, either out of the Books of Civil, Canon, or Common Law. Neither is it agreeable to Reason, that a Command to Elect a Person uncapable, should include in it an Obligation not to Elect a Person capable, that being a kind of contradiction *in terminis*. Yet this being granted, it cannot in the least affect the said Fellows, or invalidate their Election of *Dr. Houghs*, notwithstanding his Majesties *Mandate* in behalf of *Mr. Farmer*, who being incapable of the place, the Fellows cannot be said to be guilty of any Disobedience or Disloyalty, in proceeding to the Election of another Person who was quallified according to Statute, being forced to make an Election. For they are oblig'd by the Statutes of their Colledge, (when call'd together) to Elect a President, or any Officer under pain of perpetual Expulsion from the Colledge, to meet and make an Election; which punishment they incur *ipso facto*, who either refuse to meet when so call'd, or being met, to nominate or Elect a Person into the Office void, as appears by the Statutes of the said Colledge: *Titulo de numero Scholarium & electione Præsidentis*. Now according to the Founders direction in the said Statute, on the 15*th.* of *April* last, the Fellows were call'd together by the Vice-president to Elect a President in the place of *Dr. Clerk* deceas'd, and the Oath desired to be taken before the Election was administred by the Vice-president to them, whereby they are oblig'd to nominate and Elect a Person that either is or has been Fellow of *Magdalen* Colledge or *New* Colledge in *Oxon*; which Oath when the Fellows had taken, it was not

in

in their Power to elect Mr. *Farmer*, and yet they were then obliged to make an Election, under pain of perpetual Amotion from the Colledge, as appears by the fore-cited Statute. And it cannot be imagined that his most Sacred Majesty did expect that the Fellows should be either perjured, or forfeit their Right to their Fellowships, rather than disobey his Command; his Majesty having most graciously declared, that Conscience ought not to be forced, and that none of his Subjects should be molested in the Enjoyment of their Rights and Priviledges, &c. Now that our Proceedings at the Election cannot lay an Imputation of our Disobedience or Disloyalty upon us, will thus be made appear. Either we had the Power to elect a President, or we had not; if we had not, to what end or purpose did his Majesty command us to elect one? if we had, our Power was either restrained to Persons so and so qualified, or we were at liberty to chose whom we pleased; but we could not do the latter, as appears by our Statutes; and therefore we could not elect Mr. *Farmer*, being not invested with any Power to elect a Person unqualified. And if we had so done, our Election would have been null and void in it self, and the Person elected liable to be turned out by our Visitor.

As for the Decree of his Majesty's Commissioners, (in pursuance of which your Lordships have admonish'd Doctor *Hough* to recede from the Place of President, and quietly to resign the Keys of his Office, and have struck his Name out of the Colledge-Book) we humbly conceive it to be null and void in it self, to all Intents and Purposes, Doctor *Hough* being thereby deprived of Freehold for Life, (of which he was duly and legally possest) without ever being called to defend his Right, or any Misdemeanor objected against him. Wherefore we humbly beg leave of your Lordships, that Doctor *Hough* may be permitted to defend his Right and Title to the Presidentship at Common Law, before any other Person is put in possession of the Place.

Thomas Stafford.
Henry Fairfax.

Bp. Ch. Will you install the Bishop of *Oxon* President, or assist at the Installing of him?

Fell. My Lord, to this we answer, as we did on *Saturday* to the Question of his Admission, without premeditated Perjury, We cannot do it, it is not in our Power to do it.

Then *Mr. Wiggins*, Chapplain to the Bishop of *Oxford*, was called in, who delivered a Paper, impowering him as Proxy, to be installed President for his Lord; which being read, together with the Kings Mandate for the Bishop of *Oxon*, the Question was put to two or three of the Seniors, Whether they would assist at the Installment? which they refusing, the Court adjourned to the Chappel, where the Bishop of *Chester* put *Mr. Wiggins* into the Presidents Stall, none of the Fellows being present but *Mr. Chernock*, where he took the Oaths which the Statutes enjoyn the President

Prefident at his Admiffion, and the Oath of Allegiance and Supremacy, the latter of which, he was ordered to take upon his Knees, which he accordingly did, in theſe Words.

Ego Guliel. Wiggins in Cur. Reverendi in Chriſto Patris Sam. Oxon. Epiſcopi Coll. B. M. Magd. Oxon. Virtute Literarum Mandatoriarum à Rege Miſſarum Pref. Conſtituti Juro, &c.

All the Oaths he took, as well *Latin* as *Engliſh*, begun with this Form.

Then their Lordſhips conducted him to the Door of the Prefidents Lodgings, where knocking three times, and the Door not being opened, they returned to the Common Room, and commiſſioned *Atterbury* the Tipſtaff to fetch a Smith to force them open.

Then Dr. *Fairfax* offering to ſpeak, was not ſuffered, the Biſhop of *Cheſter* ſaying nothing could be done till we had taken care of the Lodgings. Gentlemen, do you know who have gotten any Keys of the Lodgings?

Fell. None but Dr. *Hough*'s own Servants.

Tipſt. Dr. *Hough*'s Servants, are any of Dr. *Hough*'s Servants here?

Bp. Ch. Then you have no Keys, if you had the Keys, and laid them down here upon the Table, you would not at all prejudice Dr. *Hough* (for *We muſt have them opened*) and Dr. *Hough* would never have the leſs advantage of the Law. You have none, have you?

Fell. No, my Lord, when we go into the Tower, we cannot go into it without the Preſident, becauſe we muſt go through his Lodgings, and we have no Key.

Bp. Ch. Well, we muſt have them opened, but we would do it with all the Quietneſs and Civillity we could.

Tipſt. My Lord, I had got a Smith, and he came down the Cloyſters as far as almoſt hither; I did but turn my Back, and he run out as faſt as he could at the Back Gate, my Lord.

Then the Biſhop of *Cheſter* gave order for another Smith, which being brought, their Lordſhips went with him to the Door of the Preſident's Lodgings, and commanded him to force them open, which he accordingly did, none of the Fellows being preſent, or aſſiſting, but *Mr. Chernock* only. The Biſhop of *Cheſter* ſaying, ſee that none come in but our ſelves.

Then they went and gave *Mr. Wiggins* Poſſeſſion of the Lodgings, where he, *Mr. Chernock* and *Mr. Hazlewood* Dined.

The Commiſſioners being returned to the Common Room.

Bp. Ch. Gentlemen, I muſt ask you ſome Queſtions, how many Fellows have you in the Colledge.

Fell. My Lord, we have forty belonging to our Foundation, but thirty ſeven in our Buttery-Book, for Dr. *Hough* and *Mr. Ludford*'s Place is void; one Fellow is diſtracted, and not write conſtantly in the Buttery-Book, but only reckoned Fellow at the General *Audit*——

Bp. Ch. How many Demy's have you.

Fell. We have thirty, but there are but twenty nine mentioned in the Book, *Mr. Holden* being Probationer.

Bp. Ch. Have you a Statute-Book in any convenient Place, where all that are concerned may have recourſe to it.

Fell. We have three Copies of our Statutes, whereof the Preſident keeps one, the Vice-preſident another, and the Senior Dean a third; to any of theſe the Fellows may have recourſe upon occaſion.

Bp. Ch. What Benefactions have been given to the Colledge, particularly, what Benefactions for the Entertainment of Strangers? how hath it been employed? I muſt tell you, Gentlemen, the Matter of this Queſtion is one of the greateſt Objections againſt you; his Majeſty hath been informed you have miſ-imployed what was deſigned for this Uſe, and it will much concern you to give a ſatisfactory Anſwer to this Queſtion.

Dr. Bayly. My Lord, We have an old Tradition of ſome ſuch things, but I do not know of any of our Writings that gives us any Light into this matter, but ſeeing your Lordſhips urge it ſo much, we deſire time to conſult our Regiſter and other Papers.

Bp. Ch. We will give you till to morrow.

Dr. Fair. I deſire your Lordſhips to hear me a few Words.

Bp. Ch. Ay, any thing you will——

Dr. Fair. Your Lordſhips may remember, that on *Saturday* laſt, when you were pleaſed to Cloſet me in this Room, I then read a Paper to your Lordſhips, of which, not then having a Dublicate, I forbore to deliver it in, therefore I humbly beg your Lordſhips will be pleaſed now to hear it, and receive it into Court.

Bp. Ch. We know the Subſtance of it, you may deliver it in.

Dr. Fair. But there was no Company in the Court, and I would willingly have ſome Witneſſes to it. Therefore I pray it may be Read.

L. C. J. It is the ſame Doctor, if we receive it in, your Plea is the ſame.

Dr. Fair. My Lords, your Lordſhips hath been doing of what I can by no means conſent to.

Bp. Ch. You are big to be delivered of your own Deſtruction, will you ſubmit to the Biſhop of *Oxon*, as now inſtalled Preſident, by Vertue of the Kings Mandate, and obey him in *Licitis & honeſtis?* Dr. *Fairfax*, What anſwer do you make?——

Dr. Fair. I think my ſelf bound to admit of no other Preſident——

Bp. Ch. We muſt admit of no Speeches here.

After ſome Diſpute, Dr. *Fairfax* gave in his Anſwer thus. I neither can nor will obey the Biſhop of *Oxon*, for I have a Lawful and Statuteable Preſident already.

Bp. Ch. Will you, Sir?

Dr. Pudſey. I ſhall obey the Biſhop of *Oxon* when I ſee him in lawful Poſſeſſions of the Lodgings.

Bp. Ch. Will you Sir?

Dr.

Dr. Tho. Smith. I ſhall obey the Biſhop of *Oxon*, *In omnibus licitis & honeſtis.*

Bp. Ch. Will you Sir?

Dr. Bay. This is a weighty Queſtion, and ought to be conſidered of, and therefore I deſire ſome time to give in my Anſwer.

Bp. Ch. Yes Doctor, you ſhall have time, and ſo ſhall all the reſt, for you ſee the Queſtion it ſelf was deliberately worded, and therefore its but reaſonable you ſhould have time to conſider of an Anſwer; but I would have you take this Explication along with you: That we do not hereby intend that you ſhould own the Biſhop of *Oxford*'s Title; no, for you may ſtill do Dr. *Hough* all the Service you can; neither will it prejudice his Title at all, but you only ſubmit to the preſent Poſſeſſor, till the Right is clearly determined, and in that you ſubmit to his Majeſty's Authority, who hath conſtituted the Biſhop of *Oxon* his Lieutenant, to govern the Subjects of this Colledge.——

Bar. Jen. There is a known Caſe in the Law, to this Purpoſe, a Lord of a Mannor may have an unlawful Poſſeſſion of an Eſtate; yet if the Tenants refuſe to ſwear Homage to him, they forfeit all the Priviledge they have in that Mannor.——

Bp. Ch. Gentlemen, go and conſult among your ſelves, and acquaint the Members of the Colledge with the Queſtion propoſed, that ſo we may have every one of your Anſwers by three a Clock in the Afternoon.——

At three of the Clock, this Anſwer was given in by the Society (except Dr. *Fairfax*, who had given his in the Morning.)

That whereas his Majeſty hath been pleaſed, by his Royal Authority, to cauſe the Right Reverend Father in God, Samuel, *Biſhop of* Oxon, *to be inſtalled Preſident: We whoſe Names are hereunto ſubſcribed, do ſubmit as far as is lawful and agreeable to the Statutes of the Colledge, and no way prejudicial to the Right and Title of* Dr. *Hough.*

This Anſwer was accepted, except the laſt Clauſe, which the Lord Chief Juſtice and Baron *Jenner* declared, as Judges, to be inſignificant, ſince nothing they could do, could any way invalidate Dr. *Hough*'s Title, but left them ſtill at liberty to be Witneſſes for him, or any other way be ſerviceable to him in the Recovery of his Right. Upon this Aſſurance, the Society was prevailed with to leave out the laſt Clauſe.

Then all were commanded to withdraw: And Dr. *Fairfax* being called in, the Biſhop asked him what he meant by his Paper above mentioned, Dated *October* the 22*d.* and whether he did ſubmit to the Authority of the Court?

Dr. Fair. As I have denyed it above, ſo I do here.

Then the Court was opened, and the Doctor complained before them all, that he was twice Cloſetted, and being asked whether he would obey the Court and Biſhop of *Oxon*, he plainly denyed both: Upon which, the *Butterry-Book* was called for, and the Biſhop

of *Chester* commanded his Name to be ſtruck out, and this Sentence paſſed, *viz.*

Foraſmuch as you have denyed the Authority of the Court, and refuſed to obey the Biſhop of Oxon, *whom the King hath made your Preſident; and taken Commons after your Suſpenſion: We declare your place void, and command you quietly to depart the Colledge within fourteen days.*

Dr. Fair. My Lords, all the huge Calamities that have befallen me, are of the ſole account of a Religious and Conſciencious Obſervation of our pious Founders Statutes; whoſe Bread I have eaten almoſt this thirty Years.

L. C. J. No Speeches: beſides, if you have any Papers, inſtead of reading them, leave them in the Court.

Then, with much ado, the Doctor prevailed with them to let him read his Proteſtation, which he left in the Court——

I Henry Fairfax, *Fellow of St.* Mary Magdalen *Colledge, do under my former Anſwer heretofore made, and to the intents it may appear that I have not conſented nor agreed to any thing done againſt me, and to my Prejudice; I proteſt that your Sentence given here againſt me, is* Lex nulla, *and ſo far as it ſhall appear to be* aliqua, *I do ſay it is* iniqua & injuſta, *and that therefore I do from it, as* iniqua & injuſta, *appeal to our Soveraign Lord the King, in his Courts of Juſtice, as the Laws, Statutes, and Ordinances of the Land will permit in that behalf. Subſcribed,*

Oct. 25th. 1687. Hen. Fairfax.

This Proteſtation was over-ruled, and a Copy of the Sentence denyed, though moſt earneſtly deſired at the Inſtance of Dr. *Hedges*, and Mr. Vice-Chancellor two days after.

At the Cloſe of the Seſſions, their Lordſhips declared, that they were very well ſatisfied with the Anſwer the Society had given them; and though before they had laid a Libel to their Charge, yet that Night, they declared they had met with nothing from them but Civility, and that they ſhould receive the ſame from them; that they had ſhewn themſelves Men of excellent Tempers this day and before; and that they would repreſent it faithfully above, to their Advantage, and that if it any way lay in their Power to ſerve them, they ſhould be very ready to do it.

Then they adjourned till *Wedneſday* Morning, ordering them to bring in their Anſwer to the following Queſtions.

I. *What Gifts and Proviſions have you for the Entertainment of Strangers?*
II. *What is the Value of it?*
III. *How is it applied?*
IV. *And where is the Place of Entertainment?*

The Colledg's Anſwer to the Lords Commiſſioners above named Queſtions, *viz. What Gifts and Proviſions have you for the Entertainment of Strangers*, &c.

IN the time of Henry *the 6th. the Hoſpital of St.* John's *was diſſolved, and the Lands thereunto belonging was purchaſed by*

by William Wainfleet, *then Biſhop of* Winton, *and in the place of that Hoſpital, he build* Maudlin Colledge.

He left no Statutes, Orders, Injunctions, Compoſitions or Proviſions for maintainance or Relief of Poor People or Strangers, that ever we could find in any Writing or Record whatſoever.

John Claimond, *the third Preſident of the Colledge, left three Pounds* per Annum, *whereof two Pounds ten Shillings is to be diſtributed amongſt the Fellows and Schollars on the firſt Monday in Lent, and ten Shillings thereof for the Repairing of four Beds and Bedſteads, which was placed in a Room over the Vault of the old Chappel; but no Proviſion is made for any Victuals or Maintenance for thoſe who were admitted to lodge there, which at the moſt were to be but four at a time. But in the time of the late Rebellion, the ſaid Chappel, with the Vaults under it, were made no other uſe of, but to lay Fuel in: whereupon, at the Reſtoration, the Viſitor directed that it ſhould be converted into Chambers for the Uſe of the Fellows and the Demy's.*

Two other of our Benefactors, Ingledew *and* Preſton, *ordered twenty Pence at a time to be diſpoſed of on fourteen Feaſts to the Poor, the whole amounting to one pound three Shillings, which is accordingly diſtributed by the Burſars yearly.*

Preſton *gave ſix Shillins* per Annum *to be beſtowed on two or three poor Scholars born in* Lancaſhire, *which is yearly diſtributed by the Preſident: ſo that all the Money (except* Perrot's *Compoſition, which is faithfully performed) which we are obliged to beſtow in Charitable Uſes, amounts but to two Pounds, three Shillings and four Pence* per Annum. *Notwithſtanding which, four Shillings is yearly given to the Caſtle for Straw for the Priſoners: And we allow eight Pounds yearly to the Alms-men of* Bartholomew's: *We allow ſix Pounds ſix Shillings and eight Pence yearly to the Poor in* Bridewel, *and twenty Pounds* per Annum *to the Preſident, for the Entertainment of Strangers and Foreigners; and there is allowed every Meal at the Burſars Table, a Commons for the Entertainment of Strangers, and the Burſars have power to add thereunto, as they ſhall ſee occaſion. And beſides, what is allowed conſtantly as aboveſaid, there is a conſiderable Sum of Money diſpoſed of yearly by the Preſident and thirteen Senior Fellows, at the Concluſion of the Accounts and other times, to indigent Perſons, Strangers and Travellers, and chiefly to ſuch as are in great Need, but aſhamed to make their Neceſſities known publick, as to deſire Alms of their reſpective Pariſhes, amounting to above ten pounds* per Annum. *And if we might not be thought to boaſt of our Charity, we could inſtance in conſiderable Sums given to the Fires of* Northampton, Southwark, London *and other Places? as alſo to the French Proteſtants, two only of which, we allow at preſent ſix Pounds yearly. Hence it appears, that we expend near an hundred Pounds* per Annum *in Charitable Uſes.*

Allex. Pudſey.
Tho. Smith.
Tho. Stafford.

Wedneſday,

Wedneſday, October 26th. 1687.

IN the Morning they made it appear to their Lordſhips very ſatisfactorily, that they were obliged to give in Charity-money two Pounds threeShillings and four Pence, and that beſides that, they gave *Communibus annis*, almoſt one hundred Pounds, as appeared by a Paper they then delivered in. Upon this their Lordſhips were pleaſed to expitiate upon their generous Bounty and Liberality, ſaying, the Complaint of this Account was groundleſs, and that it would induce the King to a better belief of them in all other matters.

Then a Petition of Doctor *Rogers*, late Organiſt, was given in, deſiring to be reſtored, which was read; but ſeveral Miſdemeanors being proved againſt him, it was thrown out, and he adviſed to reſt ſatisfied with thirty pounds *per annum*, which the Colledge had beſtowed on him when they turned him out of his Place.

Adjourned till Thurſday, *eight in the Morning*, Octob. 27*th.* 1687.

THis Morning they received a Liſt of Leaſes, &c. which had been renewed two years laſt paſt: Mr. *Chernock*, the new Convert, asked their Lordſhips, whether thoſe Leaſes ſtood good, which had been ſealed ſince Doctor *Hough's* Election? The Lord Chief Juſtice anſwered, Yes, for Corporations always ſpeak by their Seals. Then their Lordſhips peruſed the Colledge Regiſters, and finding nothing in them to object againſt, they were returned, and the Court adjourned till the Afternoon: At which time their Lordſhips told them, That having received no Expreſs from above, as they expected, they would adjourn till *Fryday* at Eight in the Morning.

Friday, October 28th. 1687.

THE Commiſſioners being ſeated, all were commanded to withdraw: then only the Fellows were called in, and the Biſhop of *Cheſter* ſaid, they had repreſented them fairly to the King; but that his Majeſty expected ſome farther Submiſſion, which they adviſed them to make, by acknowledging their Contempt to his Sacred Majeſty in Perſon, and to his Letters; and that they ſhould promiſe to behave themſelves Loyal for the future; and that they ſhould ſome ways own the Proceedings and Legality of the Court, and implore his Majeſty's Pardon, and lay themſelves at his Feet.

The Fellows making a little pauſe, the Biſhop of *Cheſter* told them, they might word it themſelves; or if they thought fit, Mr. *Tucker*, a publick Notary of theirs, ſhould aſſiſt them in a Form. Then all the Fellows withdrew into the Hall, and drew up the following Anſwer:

May it pleaſe your Lordſhips,

WE *have endeavoured in all our Actions, to expreſs our Duty in all Humility to His Majeſty, and being Conſcious to our ſelves, that in the whole Conduct of the*

the buſineſs before your Lordſhips, we have done nothing, but what our Oaths and Statutes indiſpenſably oblige us to, we cannot make any Declaration, whereby we acknowledge that we have done any thing amiſs, having acted according to the Principles of Loyalty, and Obedience, ſo far as we could, without doing violence to our Conſciences, or prejudice to our Rights, (one of which we humbly conceive the Electing a Preſident to be) from which we are ſworn upon no account whatſoever to depart. We therefore humbly beg your Lordſhips to repreſent this favourably, with our utmoſt Duty to His Majeſty, whom God grant long and happily to Reign.

Upon their Lordſhips peruſing of the Anſwer, they expreſſed their diſlike of it, ſaying, it did not come up to the Addreſs ſent to His Majeſty at *Bath* which was read; to this it was replyed, that they hoped their behaviour ſince, had been every way anſwerable to what they had therein promiſed. Then their Lordſhips ſaid, that it did not come up to what they delivered in on *Tueſday*.

Dr. *Bayly*. My Lords, we have acted conformable to our ſelves, and truly my Lords, I cannot poſſibly confeſs any Crime.

Biſh. We do not expect of you to confeſs any Capital crime, only to make ſome acknowledgment.

Mr. Fulham. My Lord, We were ordered to addreſs our ſelves, as having acted in Contempt of his Majeſties Authority, which my Lord, I look upon as ſo great a Crime; that on no account I would be guilty of it. My Lord, we have indeavoured to obey His Majeſty to the utmoſt of our power, and ſeeing your Lordſhips were pleaſed to accept our Anſwer on *Tueſday*, I humbly conceive your Lordſhips Honour is engaged, that nothing further be required of Us.

Biſh. You are a very forward Speaker, and abound in your own ſenſe.

Mr. Fulh. My Lord, I hope Your Lordſhip will give me leave to ſpeak, when our Fortunes are ſo conſiderably at ſtake———

Then Dr. *Bayly* deſired of their Lordſhips, to give him leave to explain, what he meant by the word Submit in his Anſwer on *Tueſday*; becauſe (ſaith he) I hear your Lordſhips underſtood more then was meant, and leaſt your Lordſhips ſhould go away under a miſtake, by the word Submit in the former Anſwer, I did not intend any future Obedience to the Biſhop of *Oxford*; but meant it in reference to the Kings Authority, inaſmuch as I did not oppoſe or reſiſt the Biſhop of *Oxford*'s inſtalment.

Upon this, a freſh queſtion was put to the Fellows, whether they would obey the Biſhop of *Oxford* as their Preſident *in licitis & honeſtis*; to which all except one or two anſwered, they could not obey the Biſhop of *Oxford* as their Preſident.

Then Mr. *Fulham* was particularly asked the queſtion.

Mr. Fulham. Dr. *Hough* being duely Elected and admitted Preſident doth thereby obtain a right, which I am not ſatisfied he hath any way forfeited, and therefore can obey no Perſon as Preſident.

Biſh

Bish. Ch. Will you obey the Bishop of *Oxford* as in Possession?

Mr. Fulh. I cannot, because the Bishop hath not lawful Possession.

Then he asked wherein?

Mr. Ful. He hath not Possession in due form of Law, nor by proper Officers: I am informed that the proper Officers to give possession of a Frehold, is the Sheriff with a *Posse Comitatus.*

L. C. J. Pray, who's the best Lawyer you or I? Your *Oxford* Law is no better then your *Oxford* Divinity: If you have a mind to a *Posse Comitatus*, you may have one soon enough——

Mr. Fulh. My Lords, I intended nothing but respect to your Lordships, and have indeavoured to speak and behave my self with due reverence, and I hope your Lordships will put a favourable construction on what I said——

Then all were commanded to withdraw, and the *Buttery-Book* was called for, and after that, Mr. *Fulham* was sent for in; and by the Bishop of *Chester* suspended as followeth——

Bp. of Ch. *Mr.* George Fulham, *We have thought fit to Suspend you from the Profits of your Fellowship during His Majesties Pleasure, for your Contempt and opprobrious Language*——

Then they Adjourned till *Wednesday*, the 16*th.* of *November*, Ordering the absent Fellows to be sent for home against that time. So they immediately went for *London.*

Wednesday, November *the* 6th. 1687. *at Nine in the Morning.*

THE Lords Commissioners being sate: The first thing they did, they sent for the *Buttery Book*; then called for Mr. *Joyner* and Mr. *Allibone*, and entred them Actual Fellows. The former in the Room of Dr. *Fairfax* whom they had Expelled; The latter in place of Mr. *Ludford* lately deceased: All Oaths being dispensed with besides that of a Fellow. That done the Fellows being called, and Reasons given in for those that were absent. The Bishop of *Chester* spoke a Speech to this effect.

Gentlemen, Your many Contempts, and wilful Disobedience, have occasioned this Visitation, which will end at last in your ruin. This Society of yours has been long exercised in the Methods of Quarrelling; has always been troubled with Factious Spirits, and testy Mutineers, ever since the Restoration of the late King: You have encourag'd Quarrels among your selves: Quarrels between your selves and President; Quarrels, at length, between your selves and Visitor. For I have often heard your late Visitor complain, that this Society was ever stocked with an unquiet and turbulent Generation. By these steps from quarrelling with the President, and Visitor, you have at last advanced to the highest pitch of Insolence, to quarrel with your Prince, and affront His Sacred Majesty. I endeavour'd before, at the opening our Commission, to make you sensible of the Scandal that your Disobedience will bring upon your Religion; how much you stain

ſtain and diſhonour your liberal and ingenuous Education, in this Society.

You cannot but know his Majeſty is your Supream Ordinary. You cannot but have read in Bracton, *who was twenty years Lord Chief Juſtice under King* Henry *the Third*: Nemo Preſumat de factis ejus diſquirere ne dum contra factum ejus venire: *All Diſobedience imploys Pride: For no man can diſobey his Governor, but he who thinks himſelf wiſer. The Reputation and Honour of a Prince at home, and his Reſpect abroad, are chief Standards of a Government. But theſe Pillars as much as in you lies, you have endeavour'd to ſhake. And unleſs His Majeſty's Honour and Right be vindicated by us, He can neither be fear'd at home, nor obſerved, abroad. Your Puniſhment muſt be as publick as your Crime. It cannot be conceived but His Majeſty in Juſtice, in Honour, in Clemency, and in his Royal Tenderneſs, could have proceeded otherways than he has done. On the the firſt of* April, *it was publiſhed that Dr.* Clerk *was dead: On the eleventh a* Mandamus *was directed to you, for chuſing Mr.* Farmer. *On the ninth you preſented a Petition to the Lord Preſident, wherein you laid your ſelves proſtrate at His Majeſties Feet, repreſenting to him the Incapacity of Mr.* Farmer, *deſiring the benefits of his Gracious Declaration for preſerving your Rights and Properties, and beſeeching him to Nominate another Perſon qualified according to your Statutes, in the Election of whom you would ſhew your ready obedience. So ſaid, and ſo done, Gentlemen, had been very well.*

But immediately after the delivery of the Petition, you not waiting His Majeſties Anſwer, proceeded on April *the* 15th *to an Election of* Dr. Hough; *So that by this Act, which was plainly contrary to His Majeſties Authority, whoſe Mandate did certainly imply an Inhibition; you directly confronted your former Promiſes of ready obedience, and were reſolved to give the King nothing but good words: when you had done this, as Men of ill deſigns, are always in haſte, for a confirmation of it, you immediately went and ſurprized your Viſitor, and by that means perſwaded him to confirm* Dr. Hough, *that very day he received an Order from the Lord Preſident to the contrary.*

Upon this News the King was much amazed, and required an account of your Proceedings; therefore the Lords Commiſſioners iſſued out a Citation, and after hearing your Plea: Upon mature Conſultation with the Learned of both Laws, judged the pretended Election of Dr. Hough *to be void and null, and him to be removed, by an Inſtrument dated the* 22d. *of* June, *which was affixed on the Gate. After this a Mandate was ſent, dated the* 14th. *of* Auguſt, *to you, to Elect the Biſhop of* Oxon; *upon which terms His Majeſty was graciouſly pleaſed to diſpence with your diſobedience thitherto. But this being diſobeyed, His Majeſty in Perſon on the* 4th. *of* September, *ſent for you to* Chriſt-Church, *and required you immediately to Elect the Biſhop of* Oxon *Preſident. You went ſtrait to the Chappel, a place one would think ſhould have inſpired more Devotion and Awe of his Sacred Majeſty in you; and there contemptuouſly Subſcribed and Signed a Paper, directly thwarting His Majeſties Command. The ground of your diſobedience you pretend that you could not Elect him, whereas you could not but know by a written Mandate that lay by*

you, that Admiſſion would have ſatisfied His Majeſty's Conſcience, the ſtale Topick of Rebellion was here brought to vindicate your petulant and contumacious behaviour. You pretended that you were obliged by Oaths, and I am ſorry that at the ſame time you forgot that of Allegiance. And indeed there is not a greater ſign of Hypocriſie, than partial Obedience. Had you any reſpect to the Father of your Country, and your Mother the Church, you would have Sacrificed your pretended Scruples, as a Peace-offering to the King. The beſt of us I am ſure, have reaſon to beg God and the Kings Pardon. But you, as if His Majeſty Reigned by courteſie, would have a King under you, but none over you. You urged the obſervance of your Statutes, of which as it hath appeared, you have not been ſo conſtant obſervers, when your own humour prompts you to a Diſpenſation; then you can readily embrace it; Witneſs but that of being ſerved per Maſculos, by which great Scandals have come to this Society by reaſon of Baſtards.

But when the King interpoſed, in whoſe power alone it is to diſpenſe with them, then you preſently act according to ſuch Methods as theſe. None of theſe preſences will eaſe you with wiſe and ſober men.

This was the only oppoſition His Majeſty in his Progreſs received: Wherever his Sacred Majeſty came, he worked a miraculous Converſion, except in Oxford; and ſo far ſatisfied every one with the equity of his Proceedings, that none went away diſcontented from his Preſence, unleſs it was for this reaſon, that they could not enjoy it any longer.

October the 20th, We came down, and upon opening our Commiſſion, I took care to repreſent to you the heinouſneſs of your Offence, and to perſwade you to a ſerious Repentance; but all in vain.

For on Saturday-morning we required you to Admit and Inſtal the Biſhop of Oxford, which all, except three, refuſed: In the Afternoon Dr. Hough having been deprived, and by us commanded to depart the College, came into us without any leave, but not without great Attendance; Circumſtances, I think, much benefitting a man pronounc'd Expelled; and there entred a PROTESTATION againſt all that we had done, or hereafter ſhould do, as Illegal, Unjuſt, and Null; which he deliver'd not in Writing, but by Word of Mouth: a thing repugnant to the nature of all Appeals: and which was worſe, without the uſual Salvo to His Majeſty's Supream Power. When he had ſpoken it, there followed ſuch a Tumultuous, Seditious, and Inſolent HUM, which if you your ſelves had not applauded, or at leaſt conſented to it, was impoſſible but that you would have diſcovered ſome of theſe Mutineers. However, ſince his Carriage and Language gave occaſion to it, 'twas thought fit that he only ſhould be obnoxious; and accordingly he was bound over.

On Tueſday we our ſelves cauſed the Biſhop of Oxon to be Inſtalled by his Proxy; after which we propoſed to you, Whether, being now Inſtalled, you would ſubmit to him in licitis & honeſtis? To which you gave an Anſwer under your Hands in the Affirmative. You then alſo deſired of us to repreſent your Caſe favourably to His Majeſty, giving all aſſurance of your Loyalty and Obedience. But this aſſurance of Submiſſion laſted not long; for on Thurſday, being required of us to Subſcribe ſuch a Submiſſion to His Majeſty as we thought agreeable to your Duty, you required time to conſult of it; and

and after deliberation, Sign'd such a Paper, which seem'd rather to be a Protestation against your former Submission, than an acknowledgment of your Crime. Upon this we might justly then have proceeded to an Expulsion: but we thought fit, in compassion to you, to take a Journey to London, *and acquaint His Majesty with your Disobedience and ungrateful Behaviour. His Majesty was extremely amaz'd that his Clemency should be despised; but yet, to your comfortes be it spoken, His Patience and Goodness extends as far as your Provocations can: But if you still persist in your Obstinacy, those that are too Tall to Stand, and too stuborn to Bend, deserve to be Broken. And now, I think, I have said enough to let you know, that the Figg-leaves you have so Artificially stiched together, are not sufficient to cover your Nakedness. I wish to God you had the same tenderness for your Concern, as His Majesty's Commissioners have for you. But if you still persist to oppose the Royal Power of the King, we, who are come to vindicate the Right and Honour of his Majesty, resolve to discharge our Consciences and Duties to God and the King, without any respect of Popularity; that's but the Paradice of Fools, and Scorn of Wise Men: and therefore, as for us, we have no more regard to Peoples Dislike, than what they dream: By reason therefore, of your late Hypocritical Submission, the Commissioners have thought fit, upon mature Consideration, to draw up an Instrument which shall be read to you, to which, if you shall immediately subscribe, before you leave the Room, we shall leave you to his Majesties Pardon: And this we expect from you all, except Mr.* Thomas Smith *and Mr.* Chernock, *with whose Behaviour, the King is so well satisfied, that he expects no more from them.*

His Majesties Instructions to the Visitors of St. Mary Magdalen Colledge in Oxon.

THE King having seen an Account of the Proceedings of the Visitors at St. *Mary Magdalen* Colledge in *Oxon*, his Majesty cannot think that the Paper given in on the 25*th.* of *October*, by some of the Fellows, being a pretended Submission, is such as the Visitors ought to have been satisfied with, much less what they delivered in the 28*th.* wherein they rather justifie their Disobedience and Contempt, then any way shew their Submission, which they ought to have done by asking his Majestys Pardon, and by acknowledging the Authority of the Visitors, and the Justice of their Proceedings; and therefore his Majesty thinks fit, that the Visitors, at their Return to the Colledge, do summons all the Fellows to appear before them, and to endeavour to make them as sensible as they can of their Offences, from the first disobeying the Kings Mandate, till this time, which the Visitors should let them see to be so heinous, that if they had not yet a great Consideration for that Foundation, they should think themselves obliged immediately to expel them; but having a Concern for them, and being desirous to preserve them, they do yet offer, that if they will make such a Submission as their Offences require,

they will pass by their former Faults.

Which Submission ought to be in the following Words.

To the Kings most Excellent Majesty.

The Humble Petition and Submission of the Fellows of St. *Mary Magdalen* Colledge in the University of *Oxon*, whose Names are subscribed.

WE Your Majesties most humble Petitioners, having a deep Sense of being justly fallen under Your Majesties Displeasure, for our Disobedience and Contempt to Your Majesty, and to the Authority of Your Majesties Commissioners and Visitors; We do in all Humility, prostrate our selves at your Majesties Feet, humbly begging Your Pardon for our said Offences, and promising that we will for the future behave our selves more dutifully, and as a Testimony thereof, we do acknowledge the Authority of Your Majesties said Visitors, and the Justice of their Proceedings; And We do Declare our entire Submission to the Lord Bishop of Oxon *as Our President.*

This Submission his Majesty allows the Visitors to accept of from the Fellows, as an Expiation of all their former Disobedience and Contempts, but such as shall refuse to sign the same, ought to be immediately Expell'd for their Obstinacy; His Majesty would also have the Visitors strictly to Examine the management of the Colledge Affairs, and to see whether matters may not be found sufficient for a *Quo Warranto*. His Majesty thinks fit, that the Visitors should dispatch all that they have to do, at one sitting, and accordingly they are to ask the Fellows, as soon as they have opened the matter to them, one by one; whether they will Sign this Submission, which is immediately offered to those that are willing, and such as shall refuse, are Commanded to withdraw, in Order to their Expulsion.

The absent Fellows are to be look't upon as Guilty, and proceeded against accordingly.

To which *Paper* all (except Dr. *Thomas Smith*, and Mr. *Chernock*) refused to Subscribe.

Dr. Aldworth as Vice-president, was first call'd in to sign the Paper which had been read to all the Fellows.

Vice-president. My Lords, we desire time to consider of it, and to give our Answer in Writing.

Bp. Ch. No, You must every one sign, or refuse as you are called.

Bar. Jen. There is no Answer to be given, but ay, or no.

They all moved again for time, but 'twas refused.

V. P. My Lords this is the first time of my appearance before your Lordships since your sitting here, and therefore I pray to the heard.

My Lords, I am as ready to comply with the King's Pleasure, as any Man living; neither do I know, that we have ever in this place been disobedient to the King, where it was in our Power to Obey his Commands: Our Founder in the first Clause of the Oath we take at this Election, has provided; that no one shall be President of His Colledge, but who was bred in it, or in the Colledge where he himself was bred. Now for us, who have Elected

Dr.

Dr. Hough, a Perſon qualified according to our Statutes, who has been inſtalled, Sworn, Confirm'd, and approv'd of in all the ways and manner preſcribed in the Statutes for us. My Lords, to accept and admit of a Stranger, and a Foreigner in his place, is to the beſt of my underſtanding, a giving up the Rights of the Colledge to other uſes then the Founder deſigned it. Here he was interrupted.

Bp. Ch. Your Statutes are over-rul'd by the King's Authority.

V. Pr. My Lords, Your Lordſhips ſit here as the Viſitors; which implies there are certain Laws and Statutes we are bid to obſerve, and by which we are to be govern'd; and if it ſhall appear to your Lordſhips, that we have acted conformably to theſe Statutes, I hope we ſhall neither incur the Kings diſpleaſure nor your Lordſhips. The whole Tenour of our Statutes run, that we ſhould inviolably maintain our Rights, and obſerve the Rules of our Founder; He has laid his Curſe upon us if we vary from them. (Here he repeated the words of the Founder) *Ordinamus ſub pœnâ Anathematis, & indignationis Omnipotentis Dei*, &c. *Item ſub interminatione Divini Judicis interdicimus.*

Bp. Ch. Are you not to obey the King as well as the Founders Statutes?

V. Pr. My Lord, I ever did obey the King, and ever will: Our Statutes which we are ſworn to obſerve, are confirm'd by ſeveral Kings and Queens before and ſince the Reformation, and as we keep them, are agreeable to the Kings Laws both Eccleſiaſtical and Civil, and ſo long as we live up to them, we obey the King.

Bp. Ch. Your Statutes were never confirm'd by his preſent Majeſty.

Dr. John Smith. My Lord, Neither have they been repealed by his Majeſty, and what is not repeal'd is confirm'd.

Then their Lordſhips preſſing to ſign or refuſe; the *Vice-preſident* ſaid,

V. Pr. My Lords, I'll then deal plainly, in regard to my Oath and the Statutes, to the right of all our Succeſſours, and of *Dr. Hough*, whom I believe to have been as fairly Elected, and as legally poſſeſſed as ever any ſince the Foundation of the Colledge: I cannot ſubmit to the Biſhop of *Oxon* as Preſident. So he was ordered to withdraw.

Then the ſame queſtion was put to all the other Fellows ſingly, who all refuſed to ſign the Submiſſion, (except *Dr. Thomas Smith* and *Mr. Chernock*, who were not preſt for the Reaſons above.)

Mr. Thompſon being called in to ſign the Paper, ſaid,

Mr. Thompſon. My Lords, I have been always Obedient to His Majeſties Commands, I was not concerned in the Election of *Dr. Hough*; I voted for *Mr. Farmer*, and am ready to ſubmit to the Biſhop of *Oxon.*

Bp. Ch. Did you not put your hand to this Petition? Is not this your hand? —— Read the Petition —— It was Read. —— In which the Fellows deſired His Majeſty to nominate any qualified Perſon, and to retract His *Mandate* granted for *Mr. Farmer.*

Mr. Thompſon. My Lord, I conceive the Petition not to be Diſobedient. We had not yet receiv'd the *Mandate*, as ſoon as it came, I humbled my ſelf.

Bar.

Bar. Jen. Then why can't you humble your ſelf again? is there any hurt in it?

Mr. Thompſon. This Paper requires me to own my Diſobedience to his Majeſty; I am not conſcious of any, and therefore I cannot Subſcribe.

After a ſhort time, all who refuſed to ſign the Submiſſion were called in, and by Sentence of their Lordſhips, expell'd the Colledge for Contempt, *&c.* (except as before) —— After Sentence, all that were expell'd ſpoke to this Effect: —— *My Lords, we profeſs all Duty to the King and Reſpect to your Lordſhips, but muſt beg leave to declare; That we think our ſelves injur'd in your Lordſhips Proceedings, and therefore proteſt againſt them, and ſhall uſe all juſt and legal ways of being Relieved.*

After a ſhort time, an Inſtrument was fix't on the Colledge Gates, in theſe Words.

By his Majeſties Commiſſioners for Eccleſiaſtical Cauſes, *&c. particularly Authorized and Impowered to Viſit St.* Mary Magdalen *Colledge in the Univerſity of* Oxon.

WHereas in our Viſitation of the ſaid Colledge, it appeareth unto us, that Doctor *Charles Aldworth*, Dr. *Alexander Pudſey*, Dr. *John Smith*, Dr. *Tho. Bailey*, Dr. *Tho. Stafford*, Maſter *Robert Almond*, Mr. *Manwaring Hamond*, Mr. *John Rogers*, Mr. *Richard Strickland*, Mr. *Henry Dobſon*, Mr. *James Bailey*, Mr. *John Davies*, Mr. *Francis Bagſhaw*, Mr. *James Fayrer*, Mr. *Joſeph Harwar*, Mr. *Thomas Bateman*, Mr. *George Hunt*, Mr. *William Cradock*, Mr. *John Gilman*, Mr. *George Fulham*, Mr. *Charles Penwiſton*, Mr. *Robert Hyde*, Mr. *John Yerbury*, Mr. *Robert Holden*, and Mr. *Stephen Wilki*, Fellows of the ſame Colledge, have been ſeverally guilty of Diſobedience to his Majeſties Commands, and obſtinately contemn'd his Royal Authority, and do ſtill perſiſt in the ſame: We have thought fit, upon mature conſideration thereof, to Declare, Pronounce, and Decree, that the ſaid Dr. *Charles Aldworth*, &c. and every of them, be Deprived and Expelled from their reſpective Fellowſhips: And we do by this our Sentence and Decree, Deprive and Expel them, and every of them from their ſaid ſeveral and reſpective Fellowſhips.

Given under our Seal, the 16th. *day of* November, 1687.

White-Hall, *December, the* 10*th.*

HIs Majeſties Commiſſioners for Eccleſiaſtical Cauſes, and for Viſiting all Cathedral and Collegiate Churches, and Colledges, *&c.* met this day; and taking into their conſideration all that had paſſed in the buſineſs of St. *M. Mag.* Colledge in *Oxford*, and the contemptuous and Diſobedient Behaviour of Dr. *John Hough*, and ſeveral of the Fellows of that Colledge, throughout the whole Proceeding, their Lordſhips Declared, Decreed, and Pronounced, that Dr. *Hough*, Dr. *Charles Aldworth*, Dr. *Henry Fairfax*, Dr. *Alexander Pudſey*, Dr. *John Smith*, Dr. *Thomas Bailey*, Dr. *Thomas Stafford*,

Stafford, Mr. *Robert Almond*, Mr. *Manwaring Hamond*, Mr. *John Rogers*, Mr. *Richard Strickland*, Mr. *Henry Dobson*, Mr. *James Bailey*, Mr. *John Davies*, Mr. *Francis Bagshaw*, Mr. *James Fayrer*, Mr. *Joseph Harwar*, Mr. *Thomas Bateman*, Mr. *George Hunt*, Mr. *William Cradock*, Mr. *John Gillman*, Mr. *George Fulham*, Mr. *Charles Pennystone*, Mr. *Robert Hyde*, Mr. *Edward Yerbury*, Mr. *Henry Holden*, and Mr. *Stephen Wilks*, should be uncapable of receiving, or being Admitted to any Eccleſiaſtical Dignity, Benefice, or Promotion: And ſuch of them who are not yet in Holy Orders, were adjudged uncapable of receiving or being Admitted into the ſame. All Archbiſhops, Biſhops, and other Eccleſiaſtical Officers and Miniſters within the Kingdom of *England*, being required to take notice of the ſaid Sentence and Decree, and to yield Obedience thereunto.

An Account of what happened to the Demys after the Expulſion of the Fellows of St. Mary Magdalen *Colledge*, Oxon, 1689.

ON *Wedneſday* the Sixteenth of *Nov.* the Lords Commiſſioners Expelled all the Fellows of *Magdalen* Colledge, then Reſident (except Dr. *Thomas Smith*, Mr. *Thompſon* and Mr. *Chernock*) for not ſubſcribing to a Paper, wherein they muſt have owned the Legality of their Lordſhips Proceedings, and beg'd his Majeſties Pardon for their diſobedience.

Mr. *Holt*, the principal of the Demys being in the Common Room, when the Paper was tendred them, after having craved leave of their Lordſhips, ſpoke theſe words, or to this effect.

Mr. *Holt*, When your Lordſhips were laſt here, I gave in a Paper, ſubſcribed by all the Demys, which was our Anſwer to your Lordſhips Queſtion, concerning ſubmiſſion to the Biſhop of *Oxon* as Preſident: we told your Lordſhips wherein that we would ſubmit, ſo far as was agreeable with the Statutes of the Colledge; Now my Lords, we find that by the Statutes of the Colledge, we cannot obey him, and acknowledge him as Preſident, for we take an Oath to the ſame effect, with that of the Fellows, whereby we are obliged not to admit of any Diſpenſation, and therefore I do conceive, that as the Biſhop of *Oxon*, has a Diſpenſation to qualifie him for the Place of Preſident, if we admit of it, and acknowledge him, we ſhall be perjured, and therefore for my own part, I cannot nor will obey him.

Bp. Ch. You are very forward, was you called? did we ask you the queſtion?

Mr. *Holt*, Yes my Lord, you did, when you were here laſt, we gave then an Anſwer, which I underſtand your Lordſhips took for a Declaration of an entire ſubmiſſion, which we did not, nor do intend; therefore I thought it neceſſary to give your Lordſhips this Interpretation.

Then the Court broke up, and tho' the Colledge was then left wholly deſtitute of Statutable Officers; yet the Demys did not leſs frequent the Chappel, and other Dutys of the Houſe, as did

did appear, and was very well known to their Credits of that Society, not withſtanding the many reflections and ſcandalous Reports of Mr. *H.* which he ſpoke, and did *Decemb.* the 6th. in the Maſters and Bachellors Common Fire Room (*viz.*) coming into the ſaid Room at Eight a Clock at Night, when all was quiet, telling them; *That they pretended Conſcience, but he would harden their tender Conſciences, That he did believe, that thoſe who came in their places, would better deſerve them then they did, and for ought he could find, when they were turned out, the High-ways were likely to be filled with Theives and Robbers*— He went about with three of the Biſhops Men, and ſearched ſeveral Chambers, and acted divers other things of the like nature.

The next Morning Mr. *Holt*, Mr. *Brabourne* and Mr. *Stonehouſe*, went up to his Chamber, where they charged him with each particular thing; upon which, and not being able to deny any part of it, he broke out into a great paſſion, and violently thruſt Mr. *Holt* out of his Chamber. At the ſame time, he deſired Mr. *Brabourne* to ſtay with him, to whom he then declared, that he did, and would ſubmit to the Biſhop of *Oxon* as Preſident, and that all thoſe that did not, nor would, were Fools and Coxcombs.

About two days after, ſome of the Demys being at his Chamber, he deny'd that he ſaid any ſuch things; but if he did, he ſaid, he was heartily ſorry for it; and then declared, that he never hereafter would trouble himſelf with the Government of the Colledge: all things then were very quiet, till on the 17th of *Decemb.* at which Mr. *Chernock* croſt, and put out of Commons Dr. *Sherwin*, for not Capping of him; upon which, Dr. *Sherwin* went preſently to the Buttery Book, and ſtruck the Croſs off, and demanded his Commons of Mr. *Hollis*, as being deprived of them, by one that had no power to do it, and for no breach of the Statutes. ——

Sometime after, he the ſaid Dr. *Sherwin* met Mr. *Chernock* in the Cloyſters, and told him that he was ready to diſpute it out with him; that Capping was purely a Cuſtom, and ſince that he broke it firſt, in not Capping Dr. *Hough*, he had the ſame, and far greater reaſon for not Capping of him, Mr. *Chernock* then ſaid,

Mr. *Cher.* Learn to behave your ſelves more reverently, or you ſhall diſpute it ſhortly through a Grate.

On *Chriſtmaſs* day, the Maſters Batchellors and Demys then preſent, went out of the Hall, without asking Mr. *Fennyſon*, or Mr. *Chernock* leave, looking upon them as not Fellows, the one being unſtatutably admitted, and the other having forfeited his Place, not only by the Act of Uniformity, but according to the *Vindicator* of the Commoners, who ſays whereever *ipſo facto* is mentioned in any Statute, there needs no declaratory Sentence, upon this Mr. *Chernock* Croſt, and put out of Commons all thoſe who ſo went out of the Hall without asking leave, and ordered that they, not any other Maſter, Bachellor, or Demy, ſhould be admitted into the Buttery (a known priviledge to both of them) but the ſaid Perſons entering the Buttery, and taking off their Croſſes, Mr. *Chernock* there-

upon

on ſconced the Butler Ten Shillings each.

Theſe Demys often demanded Juſtice of Mr. *H.* but they could not prevail to have their Commons allowed them, till a ſhort time after he went out of Town, the ſaid Mr. *H.* with much ado, and after great conſideration, ſaid he would venture to put them all into Commons again, though he could not tell how to anſwer it.

On *Monday* the 4th of *January*, Mr. *Compton*, Mr. *Fairfax*, Mr. *Lewis*, Mr. *Cotton*, Mr. *Guilford*, Mr. *Belſton*: And on the next *Wedneſday*, Mr. *Dreyden*, Mr. *Ployden*, Mr. *Wood* and Mr. *Roſs*, were admitted actual Fellows, and *Robert Hill* a Demy.

At the ſame time Mr. *Chernock*, who came to Town the Night before, was made Vice-preſident, Father *Lewis* Dean of Divinity, and Father *Fairfax* Dean of Arts.

It was *Saturday* before Mr. *Chernock* ſate in the Hall, and then Mr. Principle *Holt*, Mr. *Veſey*, and Mr. *Brabourn*, made uſe of the firſt opportunity to ſhew him, that they diſowned his Authority, by going out of the Hall without asking him leave; whereupon he again put them out of Commons, and croſt their Names, which they hearing, preſently ſtruck off: He then deſired to ſpeak with any one of them, and ſoon after, Mr. *Veſey* meeting him, and Father *Fairfax* together, Mr. *Chernock* ſaid.

Mr. *Cher.* There is no Society of Men can live together, without being ſubject to ſome Government or other.

Mr. *Veſey.* True Mr. *Chernock*: And as for the Government of this Colledge, I have been longer under it, than your ſelf, and you know, have been more conformable to it than you have been.

Mr. Cher. But why did you tear the Buttery Book with the Snuffers, and throw Bread about?

Mr. Veſey. I know of no ſuch thing, all that I did was daſhing of my Croſs, which you had no Authority to put on my Name.

Mr. Fair. That is enough, if you be not ſubject to us, this is not a place for you to live in.

Mr. Veſey. Then I can live ſomewhere elſe, and ſo I deſie you all and diſown your Authority.

After this, they diſcourſed with Mr. *Brabourn* to the ſame purpoſe.

On *Sunday* Mr. *Chernock* ſent the Porter to acquaint the Demys, that the Biſhop ordered them all to appear before him, and the Officers, on *Monday* about two of the Clock in the Afternoon. They anſwered, they would not obey it as an Order. But if he deſired to ſpeak with any of them, they would wait on him.

On *Monday* morning, they were ſummoned again, and at a 11 of the Clock the ſame day; Mr. *Chernock* ordered the Cook to ſend up no Commons to the Demys, except thoſe put in by the Commiſſioners, without alledging any offence againſt them.

Between One and Two the ſame day, another Summons was ſent to them, and then they anſwered; that they diſowned their Authority, and therefore

would obey no Summons from them upon which fifteen of their Names were immediately ſtruck out of the Buttery-Book, ſome of which entred their Names again. But one *Adams*, whoſe Name was ſtruck out by the Biſhop, and the reſt was put in again by Mr. *Chernock*.

The next day being *Tueſday* at Dinner time this following Paper was fixed up in the Hall.

QUandoquidem, Magiſt. Holt, *Mr.* Adams, *Mr.* Veſey, *Mr.* Brabourn, *Dom.* Hyde, *Dr.* Woodward, *Dr.* Fullham, *Dr.* Watkins, *Dr.* Stacy, *Dr.* Sherwin, *Dr.* Kenton, Buſh, Croſs, & Wells, *Scholares Coll. Magd. Univerſ.* Oxon: *Vulgo dicti* Demies: *contra Statuta & ordinationes hujus Coll. jamdudum Rebelles & Inobedientes extiterint, & uſque modo in Rebellione & in Inobedientiâ perdurent & conſpirationes contra quietum Regimen hujus Coll. aut fecerint, aut facientibus conſilium vel favorem præſtiterint, & eaſ acta perpetraverint, quibus grave damnum prejudicium & ſcandalum dicto Coll. generatur, de quibus per evidentiam facti convicti. ſunt, idcirco Præſes, Vice-Præſes & Decani dicti Coll. Autoritate noſtra, Scholares prædictos amovemus, & privamus, & eos ex nunc amotos & privates eſſe declaramus.*

Dat. in Coll. noſtro Magd. Decimo Sexto die *Jan.* 1687.

Sam. Oxon, *Præſes.*
Rob. Chernock, *Vice Preſes.*
Phil. Lewis *Theolog. Decan.*
Tho. Fairfax, *Art. Decan.*

QUandoquidem, Sam. Cripps, Georg. Stonehouſe & Carolus Liveſay *juramentum in admiſſione preſtitum minimè obſervaverint, & intolerabiles in Rebellione extiterint, & contra quietum ſtatum & Regimen hujus noſtri Coll. conſpiraverint, quo Scandalum & grave damnum dicto Coll. injecerint, de quibus per Evidentiam facti Convicti ſunt, Nos igitur Præſes, Vice Præſes & Decani prædictos rebelles à Coll. noſtro ex nunc amovemus.*

Dat. B. M. Magd. Oxon, Triceſimo 1ſt. die *Jan.* 1687.

Sam. Oxon, *Præſes.*
Rob. Chernock *Vice Præſes.*
Tho Fairfax *Art. Deacon.*

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